

EXHIBIT H

In The Matter Of:

*Melise vs
Wall, et al*

*Kerri McCaughey
July 12, 2019*



Min-U-Script® with Word Index

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF RHODE ISLAND

3 STEPHEN MELISE,
4 Plaintiff,
5 vs. C.A. NO. 1:17-cv-00490-JJM-PAS
6 ASHBEL T. WALL, et al.
7 Defendants.

8 DEPOSITION of KERRI McCAUGHEY,
9 a Defendant in the above-entitled cause,
10 taken on behalf of the Plaintiff, before
11 Lori Spremulli Confreda, Certified Court
12 Reporter, R.P.R., Commissioner, in and
13 for the State of Rhode Island, at
14 Sinapi Law Associates, Ltd., 2374 Post
15 Road, Suite 201, Warwick, Rhode Island
16 02886, on Friday, July 12th, 2019
17 scheduled at 10:00 A.M.

18 PRESENT,
19 FOR THE PLAINTIFF,
20 SINAPI LAW ASSOCIATES, Ltd.
21 BY: CHLOE A. DAVIS, ESQ.

22 FOR THE DEFENDANTS,
23 (RIDOC)
24 RHODE ISLAND OFFICE OF THE ATTORNEY GENERAL
25 BY: JUSTIN J. SULLIVAN,
SPECIAL ASSISTANT ATTORNEY GENERAL
AND: LAUREN HILL,
SPECIAL ASSISTANT ATTORNEY GENERAL

- and -

(FRED VOHR AND JENNIFER CLARKE)
TATE & LATHAM
BY: CHRISTINE STOWELL, ESQ.

ALSO PRESENT: ANTHONY SINAPI, PARALEGAL,
SINAPI LAW ASSOCIATES, Ltd.

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<p style="text-align: right;">Page 5</p> <p>1 (DEPOSITION COMMENCED AT 10:00 A.M.)</p> <p>2 KERRI McCAUGHEY</p> <p>3 Being duly sworn, deposes and testifies</p> <p>4 as follows:</p> <p>5 THE REPORTER: State your full name and</p> <p>6 spell your last name for the record, please.</p> <p>7 THE WITNESS: Kerri McCaughey,</p> <p>8 K-E-R-R-I, M-c-C-A-U-G-H-E-Y.</p> <p>9 THE REPORTER: I ask that counsel and</p> <p>10 others present state their name and affiliation.</p> <p>11 MS. DAVIS: Chloe Davis, on behalf of the</p> <p>12 plaintiff, Stephen Melise.</p> <p>13 MR. SINAPI: Anthony Sinapi, paralegal,</p> <p>14 on behalf of the plaintiff.</p> <p>15 MR. SULLIVAN: My name is Justin</p> <p>16 Sullivan, on behalf of the state defendants.</p> <p>17 MS. HILL: Lauren Hill, on behalf of the</p> <p>18 state defendants.</p> <p>19 MS. STOWELL: Christine Stowell with Tate</p> <p>20 & Latham, on behalf of defendants, Drs. Vhor and</p> <p>21 Clarke.</p> <p>22 EXAMINATION BY ATTORNEY DAVIS</p> <p>23 Q. So, I assume you know why you are here?</p> <p>24 A. Yes.</p> <p>25 Q. To be deposed in the lawsuit filed by Stephen Melise</p>	<p style="text-align: right;">Page 7</p> <p>1 accurate.</p> <p>2 If there any questions that you want to</p> <p>3 go back to, if you feel that an answer was not</p> <p>4 complete, or may have been inaccurate in any way, we</p> <p>5 can absolutely go back to earlier questions, just let</p> <p>6 me know.</p> <p>7 Throughout the deposition, I am sure that</p> <p>8 your attorney will be giving objections, I just want to</p> <p>9 remind you to answer the questions, even if there is an</p> <p>10 objection, that is, unless your attorney advises you</p> <p>11 not to answer a particular question.</p> <p>12 Let me start by asking, is there any</p> <p>13 reason that you cannot give your best testimony today?</p> <p>14 A. No.</p> <p>15 Q. Are you currently under the influence of any</p> <p>16 medications or any substances that may affect your</p> <p>17 ability to testify today?</p> <p>18 A. No.</p> <p>19 Q. And finally, if at any time during the deposition you</p> <p>20 feel you need a break, to use the rest room, or</p> <p>21 anything else, please, let me know, and we can take a</p> <p>22 break at any time. Just make sure that you finish</p> <p>23 answering whatever question has been posed before we</p> <p>24 take a break, so that the record is clean. All right.</p> <p>25 Did you do anything to prepare for this deposition?</p>
<p style="text-align: right;">Page 6</p> <p>1 against Ashbel T. Wall and the DOC, and others,</p> <p>2 including yourself, as a named defendant in Case</p> <p>3 Citation 1:17-cv-490.</p> <p>4 I know that you have recently been</p> <p>5 deposed in other cases, so I am going to try to</p> <p>6 abbreviate some of the background questions and all of</p> <p>7 that, so we are not here forever.</p> <p>8 First, I'll lay down some of the ground</p> <p>9 rules, which I sure you understand and remember, but</p> <p>10 we'll go through them quickly.</p> <p>11 There is a court reporter here who is</p> <p>12 taking down every word that we say, and so it is</p> <p>13 important that all answers are verbal, and none of the</p> <p>14 answers are using hand gestures, or anything like that,</p> <p>15 and I'll ask questions, and you will answer them, and</p> <p>16 I'll make every effort to wait until you finish</p> <p>17 answering my questions before I start asking the next</p> <p>18 one, and so I ask that you also wait for me to finish</p> <p>19 my questions before you start answering.</p> <p>20 If you do not understand a question,</p> <p>21 please let me know, don't guess, or you know, anything</p> <p>22 like that just, just say I don't understand, can you</p> <p>23 please rephrase. If you don't tell me that you do not</p> <p>24 understand the question, I'll assume that you</p> <p>25 understand, and that your answer is complete and</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Just spoke with my attorney.</p> <p>2 Q. Did you review any documents?</p> <p>3 A. Just my interrogatories.</p> <p>4 Q. And did you help prepare those interrogatories?</p> <p>5 A. Yes.</p> <p>6 Q. Originally?</p> <p>7 A. Yes.</p> <p>8 Q. There were no other documents; you didn't review the</p> <p>9 complaint, or anything like that?</p> <p>10 A. No.</p> <p>11 Q. Did you meet with anybody, other than your attorney to</p> <p>12 prepare, for this deposition?</p> <p>13 A. No.</p> <p>14 Q. That was easy. Have you discussed the facts of this</p> <p>15 case with anybody at any time, besides your attorney?</p> <p>16 A. No.</p> <p>17 Q. And does that include even when you first received the</p> <p>18 complaint? When you were served with the complaint</p> <p>19 because you're a named defendant, did you at any point</p> <p>20 discuss the fact that you were served, or the facts of</p> <p>21 the case with anybody at any time?</p> <p>22 A. Just our legal.</p> <p>23 Q. What is your address?</p> <p>24 A. 18227 Patriot Way, West Greenwich, Rhode Island</p> <p>25 02817.</p>

Page 9

1 Q. What is your date of birth?
 2 A. 9/1/1959.
 3 Q. And your education, starting with college?
 4 A. I have an Associate's degree, a Bachelor's Degree
 5 in Social Work, and a Master's degree in Criminal
 6 Justice.
 7 Q. Where was your Associate's degree obtained?
 8 A. Community College of Rhode Island.
 9 Q. What year was that?
 10 A. I graduated in 1979.
 11 Q. And you said you had a Bachelor's Degree?
 12 A. Yes.
 13 Q. Where was that obtained?
 14 A. Bachelor's of Social Work, Rhode Island College. I
 15 graduated in 1981.
 16 Q. And you said you have a Master's degree?
 17 A. Yes.
 18 Q. Where was that obtained?
 19 A. Salve Regina University.
 20 Q. What year?
 21 A. I graduated in -- hold on a second. 1999.
 22 Q. And do you currently work for the Department of
 23 Corrections?
 24 A. Yes.
 25 Q. When did you first start working there?

Page 10

1 A. August 13, 2000.
 2 Q. What was your position when you were first hired?
 3 A. Adult counselor.
 4 Q. How long did you have that position?
 5 A. Ten years.
 6 Q. And what were your duties as an adult counselor?
 7 A. To provide counseling services to the adult male
 8 inmate population.
 9 Q. What facility?
 10 A. John J. Moran Medium Security, men's.
 11 Q. Was that all of the inmates, or was it a subsection of
 12 the inmates?
 13 A. I had a caseload of inmates.
 14 Q. How many were in your caseload?
 15 A. Approximately 145.
 16 Q. How many adult counselors were there?
 17 A. Initially, six.
 18 Q. And so you said you were an adult counselor for ten
 19 years; what was your position after that?
 20 A. I was promoted to the counseling services
 21 coordinator.
 22 Q. And what were your duties in that position?
 23 A. Just to supervise the counseling department for the
 24 Department of Corrections.
 25 Q. Did that include supervising the adult counselors?

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1 A. Yes.
 2 Q. And what sort of counseling were they providing, and
 3 did you supervise; as in, what aspect of the inmates'
 4 lives were you dealing with in that position?
 5 A. As the supervisor?
 6 Q. Yes.
 7 A. I was overseeing the adult counselors and their
 8 caseloads.
 9 Q. Was that dealing with, like, the social aspect of
 10 inmates' lives, or was it educational, what sort of
 11 aspect of the inmates' lives in the prison was that
 12 dealing with?
 13 A. Inmate life in general, anything that affected
 14 their day-to-day.
 15 Q. Anything, okay. And how long did you hold that
 16 position?
 17 A. Three years.
 18 Q. What was your next position?
 19 A. Acting deputy warden.
 20 Q. What year was that, do you remember?
 21 A. 2013.
 22 Q. What were your responsibilities as acting deputy
 23 warden?
 24 A. I was the program deputy warden at John J. Moran
 25 Medium Security, I oversaw the program aspect of the

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1 administration.
 2 Q. Can you explain a little more about what that means?
 3 A. The program deputy is responsible for the programs
 4 that are implemented within the facility.
 5 Q. Such as?
 6 A. Parenting, sex offender treatment, drug treatment.
 7 Q. Did it involve in any way dealing with medical
 8 treatment, or anything like that?
 9 A. Just special needs requests.
 10 Q. Those were the only aspects of medical treatment that
 11 you ever dealt with programmatic (sic) deputy warden?
 12 A. Correct.
 13 Q. How long were you acting deputy warden, acting
 14 programmatic deputy warden?
 15 A. I remained the acting program deputy until April of
 16 2016 when I was hired permanently as a program deputy.
 17 Q. I am sorry. Can you say that one more time. You were
 18 the acting program deputy warden from 2013 to
 19 April 2016?
 20 A. Correct.
 21 Q. And then you were full-time programmatic deputy warden?
 22 A. I was hired permanently.
 23 Q. Did your job duties remain the same when you became a
 24 permanent programmatic deputy warden?
 25 A. Yes.

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1 Q. How long did you have that position?
 2 A. Until approximately two years ago, I was made the
 3 operational deputy in the same facility.
 4 Q. How did your job duties change with that position?
 5 A. I oversaw the institution operations' side of
 6 medium security.
 7 Q. And is that your current position?
 8 A. Yes.
 9 Q. So that would be somewhere in 2017?
 10 A. Approximately.
 11 Q. So you held the position of acting programmatic deputy
 12 warden for approximately three years, and you were only
 13 hired full time in that position for a year before you
 14 were promoted -- or I am sorry, your job duty changed
 15 to institution operations; is that correct?
 16 A. Yes.
 17 Q. What other responsibilities did you have as
 18 programmatic deputy warden?
 19 A. Visitation, mostly the programs of inmate life on
 20 an administration level.
 21 Q. Are you aware that as programmatic deputy warden, you
 22 were the facility ADA coordinator?
 23 A. Yes.
 24 Q. Was that position only with programmatic deputy warden;
 25 as in, are you no longer the facility ADA coordinator?

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1 A. Yes, correct.
 2 Q. Who is the current programmatic deputy warden?
 3 A. Kathy Lyons.
 4 Q. Who was your supervisor while you were programmatic
 5 deputy?
 6 A. Warden Sergio Desousa Rosa.
 7 Q. Who is your current supervisor?
 8 A. Warden Ruis Diniz.
 9 Q. When you became the acting programmatic deputy warden,
 10 did you receive any training in regard to your position
 11 as facility ADA coordinator?
 12 A. No.
 13 Q. Did anyone ever discuss with you or explain the
 14 obligations of being the facility ADA coordinator to
 15 you?
 16 A. No.
 17 Q. What do you understand to be your responsibilities when
 18 you were facilities ADA coordinator?
 19 A. To ensure that individuals with disabilities are
 20 afforded the same opportunities as anyone else within
 21 reasoning.
 22 Q. How did you learn what your responsibilities were if
 23 you obtained no training and no one spoke to you about
 24 it?
 25 A. When we are hired, we are told about ADA, as far as

Page 15

1 my coordinator role, I just followed the rule of a
 2 program deputy when it came to special needs requests.
 3 Q. When did those rules come from?
 4 A. In policies.
 5 Q. Do you know how many policies there were in regard to
 6 the ADA?
 7 A. No.
 8 Q. At any point, were you responsible for reviewing
 9 policies?
 10 A. Not as a program deputy warden.
 11 Q. When did you at some point become responsible for
 12 reviewing the policies?
 13 A. When I became an operational deputy, I reviewed all
 14 of the policies that related to institution and
 15 operations. When I was program deputy, I reviewed
 16 policies -- or I became familiar with policies that
 17 were under my responsibility as a program administrator
 18 deputy.
 19 Q. Which policies would that have included?
 20 A. All departmental policies that fall under the
 21 program deputy's purview.
 22 Q. So do you know approximately how many that was?
 23 A. I don't.
 24 Q. When you were a programmatic deputy warden in regard to
 25 the policies that you were responsible for, for being

Page 16

1 aware of, such as the ADA policies, was it your
 2 responsibility to review and implement those, or did
 3 you just need to be familiar with them?
 4 A. I needed to be familiar with them.
 5 Q. So you did not have any responsibility for ensuring
 6 that those policies were carried out?
 7 A. Could you rephrase that?
 8 Q. While you were the programmatic deputy warden, you were
 9 the ADA coordinator for the facility, and as I
 10 understand it, you just testified that you were
 11 responsible for being familiar with the policies
 12 relevant to that; did that also include being
 13 responsible for implementing those policies?
 14 A. I was responsible for signing special needs
 15 requests.
 16 Q. Anything else?
 17 A. No.
 18 Q. That was the only thing you were responsible for?
 19 A. Medically, yes.
 20 Q. Okay. Do you know if all of the inmates are provided
 21 with copies of the policies?
 22 A. Some policies, not all.
 23 Q. Do you know which ones -- I understand that there is a
 24 lot of them, but can you give me sort of an explanation
 25 of which types of policies might be provided to the

<p style="text-align: right;">Page 17</p> <p>1 inmates?</p> <p>2 A. Policies that are available to the inmates are in</p> <p>3 the law library. I cannot answer of the top of my head</p> <p>4 which ones are in the law bribery and which ones or</p> <p>5 not.</p> <p>6 Q. Do you have access to all of the policies?</p> <p>7 A. Yes.</p> <p>8 Q. Did you as programmatic deputy warden?</p> <p>9 A. Yes.</p> <p>10 Q. Even policies that didn't apply to your job, you had</p> <p>11 access to all of them?</p> <p>12 A. I had access, yes.</p> <p>13 Q. Are those policies provided to the correctional staff?</p> <p>14 A. Yes.</p> <p>15 Q. All of them?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you have any idea how many policies concern medical</p> <p>18 treatment and/or special needs accommodations?</p> <p>19 A. No.</p> <p>20 Q. I believe you have already testified to this, but you</p> <p>21 did review the ADA policies while you were programmatic</p> <p>22 deputy warden?</p> <p>23 A. Yes.</p> <p>24 Q. Did you review them as soon as you became the</p> <p>25 programmatic deputy warden?</p>	<p style="text-align: right;">Page 19</p> <p>1 A. Medical staff are responsible for generating a</p> <p>2 special needs requests.</p> <p>3 Q. Who was responsible, for instance, for writing the</p> <p>4 policies on compliance with the ADA and special needs</p> <p>5 accommodations?</p> <p>6 A. I don't know.</p> <p>7 Q. I believe you testified a few minutes ago to the fact</p> <p>8 that when you became the operations deputy warden, you</p> <p>9 were responsible for reviewing policies, is that</p> <p>10 correct?</p> <p>11 A. Any administrator is responsible for reviewing</p> <p>12 policies as they are updated.</p> <p>13 Q. Who is responsible for updating them?</p> <p>14 A. The policy and planning unit.</p> <p>15 Q. Is that a completely separate unit from the operations</p> <p>16 or medical staff?</p> <p>17 A. Yes.</p> <p>18 Q. Is that a unit that covers all of the facilities, or is</p> <p>19 there a particular unit within the medium security</p> <p>20 facility?</p> <p>21 A. The policy unit covers the entire department.</p> <p>22 Q. At any point while you were the programmatic deputy</p> <p>23 warden, or the operations deputy warden, did anyone</p> <p>24 from the policies unit -- I am sorry. What did you</p> <p>25 call it.</p>
<p style="text-align: right;">Page 18</p> <p>1 A. I don't remember.</p> <p>2 Q. I believe you also testified that when you are hired,</p> <p>3 people are told about the ADA; can you explain what</p> <p>4 that means?</p> <p>5 A. It is something that is covered at new employee</p> <p>6 orientation.</p> <p>7 Q. Do you remember what was covered?</p> <p>8 A. No.</p> <p>9 Q. What was discussed?</p> <p>10 A. No.</p> <p>11 Q. Were you first informed about the ADA when you were</p> <p>12 hired in 2000?</p> <p>13 A. At new employee orientation.</p> <p>14 Q. At any time point, did you receive follow-up training</p> <p>15 on that?</p> <p>16 A. No.</p> <p>17 Q. So, you have never received any training on any changes</p> <p>18 that might have happened to the ADA since you were</p> <p>19 first hired in 2000?</p> <p>20 A. No.</p> <p>21 Q. Who is responsible for establishing the protocols and</p> <p>22 procedures for dealing with special needs orders?</p> <p>23 A. Medical staff.</p> <p>24 Q. Medical staff are responsible for establishing the</p> <p>25 procedures?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. It's the policy and planning unit.</p> <p>2 Q. Did they contact you to discuss the policy on special</p> <p>3 needs accommodations?</p> <p>4 A. No.</p> <p>5 Q. While you have been the operations deputy warden, did</p> <p>6 you review the ADA policy?</p> <p>7 A. As the operations deputy warden?</p> <p>8 Q. Yes.</p> <p>9 A. No.</p> <p>10 Q. So, at no point have you reviewed and/or been involved</p> <p>11 in reviewing the ADA policy for purposes of determining</p> <p>12 if it needs to change?</p> <p>13 A. No.</p> <p>14 Q. Would that be encompassed in your current job?</p> <p>15 A. I don't understand your question.</p> <p>16 Q. Would it be your responsibility as operations deputy</p> <p>17 warden to review the ADA policy to determine if it</p> <p>18 might need to be evaluated or changed in any way?</p> <p>19 A. No.</p> <p>20 Q. When you review policies, what are you reviewing them</p> <p>21 for?</p> <p>22 A. Familiarization.</p> <p>23 Q. So you have absolutely no role in determining if the</p> <p>24 policies make sense or if the policies should be</p> <p>25 changed in any way or should be updated?</p>

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1 A. No.
 2 Q. Do you believe that the current procedures for handling
 3 special needs orders are adequate?
 4 A. From my perspective?
 5 Q. Yes.
 6 A. No.
 7 Q. In what way are they not adequate?
 8 A. By not providing enough information.
 9 Q. In what regard?
 10 A. With the request itself.
 11 Q. As in the request that is provided to the programmatic
 12 deputy warden does not include enough information?
 13 A. Sometimes.
 14 Q. Any other way that you believe that it is inadequate,
 15 the policy?
 16 A. I can't answer that.
 17 Q. Well, you said that you do not think that the
 18 procedures are adequate; was there any other way, other
 19 than the fact that there was not sufficient
 20 information?
 21 A. No.
 22 Q. How about the procedures for implementing orders, do
 23 you believe that those are adequate?
 24 A. That's medical.
 25 Q. How so?

Page 22

1 A. The implementation of special needs is the
 2 responsibility of medical.
 3 Q. All right. We can circle back to this in just a
 4 second. I am going to get to a couple of other issues.
 5 How do inmates request medical treatment?
 6 A. They put in a request slip to medical.
 7 Q. How do they obtain that request slip?
 8 A. They are all over the facility.
 9 Q. Who do they give the slip to?
 10 A. They drop them in a mailbox.
 11 Q. And what happens after it is dropped in the mailbox?
 12 A. The mail officer delivers the mail into the
 13 facility where it is designated to go, and medical
 14 makes appointments from there.
 15 Q. So an inmate will fill out a slip, and it will be
 16 delivered to the medical department or staff, and the
 17 medical staff will contact the inmate?
 18 A. You would have to ask them how they do that.
 19 Q. Are correction staff in any way involved in that
 20 process?
 21 A. Just the delivery of the mail, it is a mail
 22 officer.
 23 Q. How is it that medical staff would contact the inmate
 24 to make an appointment?
 25 A. They would generate a list of individuals they want

Page 23

1 to see on a certain day, and the front desk officer in
 2 the dispensary would call those offenders down.
 3 Q. So there are correctional staff involved in the
 4 process, because they would receive the list of inmates
 5 that medical would want to see, and they would contact
 6 those inmates?
 7 A. They would call the housing units.
 8 Q. Then what, who are they contacting in the housing unit?
 9 A. The correctional officer that works in the main
 10 control center.
 11 Q. And then at some point somebody would contact the
 12 inmate?
 13 A. Yes.
 14 Q. Is there a way for inmates to contact medical directly?
 15 A. They can go to sick call.
 16 Q. What happens if they go to a sick call; can they see
 17 somebody immediately, or do they have to put a slip in
 18 there, or is there another process?
 19 A. That's up to medical.
 20 Q. Are security staff allowed to overrule medical staff
 21 orders?
 22 A. No.
 23 Q. It is my understanding that there are three shifts of
 24 correctional staff, specifically, in medium security, I
 25 think, and so, can you explain what hours each shift

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1 is?
 2 A. 7 A.M. to 3:00 P.M.; 3:00 P.M. to 11:00 P.M., and
 3 11:00 P.M. to 7 A.M.
 4 Q. And are there medical staff available in medium
 5 security on each of those shifts?
 6 A. No.
 7 Q. Can you explain when they are available?
 8 A. 7 to 3, 7 A.M. to 3:00 P.M. and 3:00 P.M. to 11
 9 P.M.
 10 Q. What happen in the 11 to 7 shift?
 11 A. There is on-call medical staff.
 12 Q. The on-call medical staff, does that mean that the
 13 medical staff are at home and can be called, or does
 14 that mean they are available in another facility?
 15 A. They are available in another facility.
 16 Q. What facility are medical staff available in during
 17 third shift?
 18 A. The intake center.
 19 Q. That's the only one?
 20 A. Yes.
 21 Q. So what happens if there is an incident, a medical
 22 incident, on third shift in medium security?
 23 A. It depends on what the incident is.
 24 Q. Well, can you explain what possible instances there
 25 might be?

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1 A. If an offender has a medical emergency, he would
2 flash a light in his cell to get the attention of the
3 officer. The officer would determine if that inmate
4 needs to be seen right away, and he would contact our
5 commander, and our shift commander would reach out to
6 the on-call medical staff at the intake center.
7 Q. And you said that would be if there is a medical
8 emergency; are there other types of instances that
9 occur that might require medical attention?
10 A. I don't understand the question.
11 Q. What would you qualify as a medical emergency?
12 A. If someone is having, if someone is in distress or
13 what appears to be a heart attack.
14 Q. Would that include a fight where somebody might have
15 gotten injured?
16 A. It could.
17 Q. Would it include, for instance, someone falling out of
18 bed and being injured?
19 A. It could.
20 Q. So you might classify that as a medical emergency, or
21 you might not?
22 A. I would leave that to medical.
23 Q. In any potential incident that occurs during third
24 shift, at some point, the shift commander could be
25 called, and medical would determine how to approach it?

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1 A. Yes.
2 Q. So you said earlier that, when I asked what happened
3 when there is a medical incident, you said it depends;
4 what does it depend on; as in, what does the procedure
5 depend on? Are there different procedures?
6 A. It would depend on the nature of the inmates -- it
7 would depend on the nature of the incident.
8 Q. How so?
9 A. If an inmate flashes a light because he is in
10 distress, the correctional officer is going to contact
11 the shift commander, and when the shift commander
12 responds, he will determine whether or not medical
13 needs to come and evaluate this person, and medical
14 will determine where that will happen.
15 Q. So it is the shift commander's decision to call medical
16 and ask them to report to medium?
17 A. They will present the situation, and medical will
18 decide whether they report to medium, or the offender
19 is brought to intake, or it can wait until the morning.
20 Q. Okay. What is a code white?
21 A. That's a medical emergency.
22 Q. And is that the process that you've just described to
23 me, that would be calling the shift commander, or is
24 there some other procedure?
25 A. Again, it depends on the incident itself.

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1 Q. So when would a code white be called, or what happens
2 in a code white, specifically?
3 A. The officer will come over the radio, and call a
4 code white, and medical staff will respond -- unless it
5 is 11 to 7.
6 Q. So a code white might be called at any time during the
7 day?
8 A. Yes.
9 Q. Are code whites called on third shift?
10 A. I don't know.
11 Q. Is the code white -- or how is the code white
12 announced?
13 A. Over the radio, or a call to shift commander if
14 it's 11 to 7.
15 Q. So it is not, like, a loudspeaker announcement?
16 A. Yes.
17 Q. It is?
18 A. Yes.
19 Q. So anybody in the facility could hear it, it is not
20 just like as if you are holding a radio you could hear
21 it; is that correct?
22 A. That's correct.
23 Q. Is that announced in the medium facility only, or is it
24 announced in other facilities?
25 A. I can only attest to medium security.

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1 Q. Fair enough. And so what is supposed to happen when a
2 code white is called?
3 A. A shift commander responds, and medical staff if on
4 duty respond.
5 Q. Otherwise, the shift commander would call intake to
6 talk to medical?
7 A. Correct.
8 Q. What happens during a code white, or following a code
9 white in regard to video footage?
10 A. Video footage is 24/7. If we need to secure video
11 footage, we would secure video footage.
12 Q. Does that automatically occur when an code white or an
13 incident occurs; as in, is video footage stored or kept
14 in response from an incident if a code white is called?
15 A. If it is requested.
16 Q. Who would request it?
17 A. The shift commander.
18 Q. Is the shift commander the only person that can request
19 that video footage be stored?
20 A. No.
21 Q. Who else can request it?
22 A. Administrators.
23 Q. Why might video footage be requested to be stored?
24 A. Depending on the incident.
25 Q. Do you know how often it might be stored for medical

<p style="text-align: right;">Page 29</p> <p>1 instances?</p> <p>2 A. I don't.</p> <p>3 Q. Have you ever requested footage to be stored?</p> <p>4 A. Not that I can recall. On code white, not that I</p> <p>5 can recall.</p> <p>6 Q. What about for other incidents?</p> <p>7 A. I have requested video storage be stored.</p> <p>8 Q. What types of incidents have you requested video</p> <p>9 footage for?</p> <p>10 A. Assaults, fights.</p> <p>11 Q. But never for a medical issue?</p> <p>12 A. Not that I can recall.</p> <p>13 Q. Is there a particular protocol for requesting footage</p> <p>14 be stored, or does it completely depend on whoever is</p> <p>15 the shift commander is and whatever administrator might</p> <p>16 ask for it; as in, is there any policy on requesting</p> <p>17 video footage?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. So, there is no formal protocol for choosing to store</p> <p>20 footage, it just depends on whoever decides to store</p> <p>21 it, requests for it to be stored?</p> <p>22 A. I don't know.</p> <p>23 Q. What are correctional staff permitted to do when there</p> <p>24 is an incident during third shift; as in, are they</p> <p>25 permitted to provide any sort of treatment or response</p>	<p style="text-align: right;">Page 31</p> <p>1 A. They do not have accessibility to ice.</p> <p>2 Q. Are correctional staff permitted to call ambulances?</p> <p>3 A. The shift command would call for an ambulance.</p> <p>4 Q. Would that be the same for a decision to send an inmate</p> <p>5 to the hospital?</p> <p>6 A. Medical staff and the shift commander. Medical</p> <p>7 staff would determine whether someone goes to the</p> <p>8 hospital.</p> <p>9 Q. Are shift commanders or other correctional officers</p> <p>10 able to overrule a medical staff decision to send</p> <p>11 somebody to the hospital?</p> <p>12 A. No.</p> <p>13 Q. What if a medical staff decided that someone didn't</p> <p>14 need to go to the hospital, but a correctional staff</p> <p>15 said they should, can they overrule that decision?</p> <p>16 A. I don't know.</p> <p>17 Q. Have you ever seen a correctional staff decide to send</p> <p>18 somebody to the hospital when medical staff said not</p> <p>19 to?</p> <p>20 A. Not that I can recall, no.</p> <p>21 Q. How long would it ordinarily take for medical staff to</p> <p>22 respond to a code white or an incident on third shift</p> <p>23 in medium?</p> <p>24 A. I don't know.</p> <p>25 Q. Have you ever been at medium during third shift?</p>
<p style="text-align: right;">Page 30</p> <p>1 of any kind to an inmate that might be injured?</p> <p>2 A. It depends on the incident.</p> <p>3 Q. Can you explain what circumstances or what provision of</p> <p>4 treatment correctional staff might be permitted to</p> <p>5 provide?</p> <p>6 A. CPR.</p> <p>7 Q. Anything else?</p> <p>8 A. It would be lifesaving intervention.</p> <p>9 Q. Would they be permitted to provide a wheelchair for</p> <p>10 someone that would be injured?</p> <p>11 A. Medical would bring that with them.</p> <p>12 Q. Do correctional staff have access to wheelchairs?</p> <p>13 A. Yes.</p> <p>14 Q. Would they be able to provide a wheelchair if they</p> <p>15 thought it was necessary?</p> <p>16 A. Yes.</p> <p>17 Q. Would they be permitted to do that?</p> <p>18 A. Yes.</p> <p>19 Q. Would they be permitted to provide over-the-counter</p> <p>20 medications, such as ibuprofen?</p> <p>21 A. No.</p> <p>22 Q. No over-the-counter medication whatsoever?</p> <p>23 A. No.</p> <p>24 Q. What about providing ice, could they do that for an</p> <p>25 inmate that might be injured?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Not when a code white was called.</p> <p>2 Q. So you have no idea how long it might take for medical</p> <p>3 to respond to the medium security?</p> <p>4 A. Correct.</p> <p>5 Q. Do you know how long it might take during the day? Are</p> <p>6 there any times when medical staff would report to</p> <p>7 medium during first or second shift?</p> <p>8 A. Medical staff is on duty during first and second</p> <p>9 shifts.</p> <p>10 Q. So nobody from intake would ever need to go to medium</p> <p>11 during the day; is that correct?</p> <p>12 A. I don't know.</p> <p>13 Q. Do you know if there are different types of orders that</p> <p>14 medical staff can issue, or how many different types of</p> <p>15 orders they can issue?</p> <p>16 A. I don't know how many.</p> <p>17 Q. One of those is a special needs orders; is that</p> <p>18 correct?</p> <p>19 A. A special needs request.</p> <p>20 Q. A special needs request. So, how do inmates request</p> <p>21 reasonable accommodations, or special needs?</p> <p>22 A. Through medical.</p> <p>23 Q. Are there any other ways for them to make requests for</p> <p>24 reasonable accommodations?</p> <p>25 A. Not that I am aware of.</p>

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1 Q. Do you know how inmates are informed about their
2 ability to request special needs accommodations?
3 A. I don't understand your question.
4 Q. How would an inmate know whether or how he could
5 request an accommodation?
6 A. He would ask through medical.
7 Q. So when inmates arrive at medium, is there any sort of
8 handbook or explanation of how things work that's given
9 to them when they get there?
10 A. Yes.
11 Q. And would that handbook include an explanation of how
12 they might request reasonable accommodations?
13 A. No.
14 Q. Why not?
15 A. It is a general overview of what is available in
16 the facility. If it is medical, they are going to go
17 to medical for requests.
18 Q. So the handbook would just say, if you have any medical
19 issues, go to medical?
20 A. Yes.
21 Q. That's all it would say?
22 A. Yes.
23 Q. So their only avenue for figuring out how they might
24 obtain reasonable accommodations would be to go to
25 medical, and ask medical for a reasonable

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1 accommodations; is that correct?
2 A. As I recall.
3 Q. So what happens when an inmate requests a reasonable
4 accommodation?
5 A. That would be on medical.
6 Q. But, presumably, they would go to medical, they would
7 request some sort of reasonable medical accommodation,
8 and medical would submit a request?
9 A. Medical would review their record and generate a
10 special needs request.
11 Q. And then what would happen with that request?
12 A. It would come out to myself, or the program deputy.
13 Q. And how does it get from medical to you when you were
14 the programmatic deputy warden?
15 A. Medical staff would leave those requests in my
16 mailbox.
17 Q. So the medical staff that filled out the request would
18 presumably print it out, and they would walk it over to
19 your mailbox?
20 A. Yes.
21 Q. Do you know if it would be the person who filled it
22 out, or just anybody who was asked to carry it over to
23 your mailbox?
24 A. It could be anyone.
25 Q. Are there any correctional staff involved between the

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1 medical staff filling out the request and putting it in
2 your mailbox; is there any correctional staff involved
3 at any point during that?
4 A. Not that I am aware of.
5 Q. So once it gets to your mailbox, what do you do?
6 A. I review the request.
7 Q. What do you review it for?
8 A. I review it to determine whether or not it may or
9 may not be warranted, depending on what the request is.
10 Q. What, in your determination, would warrant a special
11 needs request; are you reviewing it for medical
12 reasons? For security reasons?
13 A. I am reviewing for safety and security reasons.
14 Q. Is that the only thing that you review it for?
15 A. No.
16 Q. What else do you review it for?
17 A. Operationally, is it sound, is it safe, is it a
18 safe practice, does it present a hazard for staff and
19 inmates.
20 Q. Anything else?
21 A. Legitimacy.
22 Q. What does that mean?
23 A. If the request is legitimate.
24 Q. Can you explain what you mean by legitimate?
25 A. If the special need is an actual legitimate request

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1 that has been -- that there is an issue that has been
2 documented.
3 Q. Documented in what way?
4 A. In some cases, the diagnosis.
5 Q. So are you referring to documented in medical records?
6 A. Yes.
7 Q. Do you have access to medical records?
8 A. No.
9 Q. Then how would you be able to determine if it was,
10 quote/unquote, "legitimate"?
11 A. I would request more information.
12 Q. Why would you be concerned about whether or not it was
13 documented?
14 A. Because special needs sometimes come to us that
15 have no legitimacy.
16 Q. Can you give an example?
17 A. Instances that are self-reported.
18 Q. Wouldn't all instances be self-reported by an inmate if
19 he is requesting a special needs accommodation?
20 A. No.
21 Q. What do you mean by self-reported?
22 A. They present to medical that they have a
23 self-reported injury, a self-reported condition that's
24 not documented.
25 Q. Are you suggesting that the medical staff have not

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1 verified the complaint?
2 A. I am not suggesting that.
3 Q. How would you know whether or not something was
4 documented or self-reported?
5 A. I would ask for more information from medical
6 staff.
7 Q. And in what way is that concern related to security
8 operational or hazard concerns?
9 A. I am not sure what you are asking me.
10 Q. Would the legitimacy of the request affect whether the
11 request presented operational concerns?
12 A. In some cases.
13 Q. How so?
14 A. It may interfere with the orderly running of the
15 facility itself. It may present a safety or security
16 issue of the normal day-to-day operations.
17 Q. How so?
18 A. It depends on what the incident is.
19 Q. Can you give some examples of what reasonable
20 accommodations might be requested?
21 A. Canes, wheelchair accessibility, hand braces, knee
22 braces.
23 Q. Anything else?
24 A. Bottom bunks.
25 Q. So I suppose I could imagine why a cane might present

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1 some security concerns. Can you explain how some of
2 the other accommodations might present security
3 concerns; such as if someone had a knee brace?
4 A. Some medical supplies have and can be used as
5 weapons or to store weapons.
6 Q. What about a bottom bunk assignment, how could those
7 present security concerns?
8 A. Well, enemy issues, gang issues, housing assignment
9 by reclassification.
10 Q. What do you mean housing assignment by
11 reclassification?
12 A. Well, to determine where somebody is going to live
13 within the facility, there are a lot of considerations
14 that come into play before they're assigned their
15 housing unit.
16 Q. Would that be right when they got to the facility?
17 A. That would be the first time.
18 Q. Are they reconsidered at any point?
19 A. It depends.
20 Q. Would classification be reconsidered if, for instance,
21 a reasonable accommodation was needed that could be not
22 provided in a particular facility?
23 A. An offender cannot be reclassified to a higher
24 security based upon medical needs.
25 Q. But could an inmate be reclassified to a lower security

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1 facility?
2 A. Not for medical reasons.
3 Q. So they could never be reassigned for medical purposes?
4 A. I am not going to say never. I am saying I have
5 never seen it happen.
6 Q. What other reasons might an inmate be reclassified
7 after he was originally classified when he showed up?
8 A. By law.
9 Q. All right. When you review special needs orders or
10 requests, what are the options for you to handle it?
11 What are the procedures? You know, would you deny it,
12 approve it, ask for more information; are those the
13 three options for you to handle it?
14 A. Those are the three options, yes.
15 Q. Are there any other options?
16 A. In some cases, if it requires a device of some
17 kind, I would ask to see it.
18 Q. Ask to see the device?
19 A. Yes.
20 Q. Is that so that you could figure out if it might
21 present security concerns?
22 A. Correct.
23 Q. So when you decide that you need more information, what
24 do you do?
25 A. I write that right on the special needs request,

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1 that I am requiring more information to make a
2 decision.
3 Q. Then what happens?
4 A. It goes back to medical.
5 Q. How does it get back to medical?
6 A. I put it in their mailbox.
7 Q. Is there just one medical mailbox, or is it for
8 different --
9 A. In our administration, there is a medical mailbox
10 that they check every day.
11 Q. So somebody from medical would come check their
12 mailbox, take it back to medical, and they would decide
13 how to distribute; as in, distribute whatever mail they
14 receive; correct?
15 A. Yes.
16 Q. Presumably?
17 A. Yes.
18 Q. So once you put it in the mailbox you have no more, no
19 further interaction or contact with that order until
20 you might see it again; is that correct?
21 A. Correct.
22 Q. So once it goes back to medical, and you tell them you
23 need more information, do you ever follow up on the
24 orders that you have asked for more information on?
25 A. When they send them back to me.

<p style="text-align: right;">Page 41</p> <p>1 Q. So you will ask for more information, put it in the 2 mailbox, and just wait to see if medical responds? 3 A. I wait for it to come back, yes. 4 Q. So have you ever thought about an order that you asked 5 for more information on and decided to go ask what was 6 happening with it? 7 A. No. 8 Q. What is the procedure when you deny a medical order -- 9 or I am sorry, a special needs accommodation request? 10 A. I write denied on it, and I date it, and I sign it. 11 Q. And then you put it in the box, presumably? 12 A. Yes. 13 Q. Do you know where the denied order goes after that? 14 A. Back to medical. 15 Q. Do you provide a copy to anybody else? 16 A. No. 17 Q. Do you document the orders that you receive, or the 18 requests that you receive; as in, do you keep a list of 19 the requests that you receive, or do you write down the 20 ones that you receive and whether you approve or deny 21 them, anything like that? 22 A. No. 23 Q. You keep no independent documentation of those orders 24 when you receive them or after you have reviewed them; 25 correct?</p>	<p style="text-align: right;">Page 43</p> <p>1 making sure that those that have them are legitimate. 2 Q. Who is responsible for assigning bunks? 3 A. Housing lieutenant. 4 Q. So is there more than one person in the medium security 5 facility responsible for that? 6 A. There are more than one housing lieutenant, yes. 7 Q. How many housing lieutenants are there in medium? 8 A. Four. 9 Q. Are they responsible for a particular mod, or just do 10 they work sort of together; how does that work? 11 A. They are responsible for a particular area in the 12 facility. 13 Q. Do you know how they make decisions for assigning 14 bunks? 15 A. Any number of reasons. 16 Q. How many beds are in medium security? 17 A. Well, I am not going to give you an exact number, 18 but I can tell you there are six housing units with 906 19 bunks on the housing unit, each side has a left and a 20 right. So there's 12 housing areas with 96 bunks on 21 each side. 22 Q. So there are 12 housing areas each with 96 beds, and 23 that's the total for medium security, or did you say 24 housing units on each side? 25 A. Each side.</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Correct. 2 Q. What are the grounds that you have for denying a 3 reasonable accommodation request? 4 A. It depends on what it is. 5 Q. What would be some grounds for denying a request for a 6 bottom bunk? 7 A. Again, bottom bunks, we only have so many. So, my 8 role would be to make sure that those that have bunks 9 have them for legitimate reasons that cannot be 10 accommodated in any other way. 11 Q. Are there any other reasons why you might deny a 12 reasonable request? 13 A. Any reasonable request? 14 Q. Yes. What are the reasons why you would deny a 15 reasonable accommodation request other than -- 16 MS. DAVIS: Let me rephrase. 17 Q. You just said that you would, you might deny a bottom 18 bunk if you determine that it was not legitimate; are 19 there other reasons why you might deny a bottom bunk 20 request? 21 A. Not enough information, no documentation to justify 22 the request. 23 Q. Are there any security reasons why you might deny it? 24 A. Well, in general, climate issues. I don't have a 25 large, huge number of bottom bunks. So, again, I am</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. So there are 24 housing areas in medium security? 2 A. There are 12. There are six housing units, each 3 housing unit has a left and a right side, each side has 4 96. 5 Q. Okay. So, total, there is 12 housing areas, and each 6 one has 96 beds? 7 A. 96 beds, yes. 8 Q. Can I assume that half of those beds are bottom bunks 9 and half of them are top bunks? 10 A. Yes. 11 Q. So are not any single bed bunks, I don't know if that 12 even makes sense? Do you understand what I am asking? 13 A. I do. We do not have single cells, but we do have 14 in a very small instance individuals who live in a cell 15 without a roommate. 16 Q. But each one of those cells has two bunks? 17 A. Correct. 18 Q. Do you know how many inmates are currently in medium 19 security? 20 A. As of yesterday, it was 982, I believe. 21 Q. Do you know approximately how many inmates there were 22 in 2015 and 2016? 23 A. I do not. 24 Q. Is medium security at capacity? 25 A. Not currently.</p>

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1 Q. Has it been at capacity at any point in the last five
2 years?
3 A. Not full capacity, but close.
4 Q. Do you know how many reasonable accommodation requests
5 you get in a day when you were the programmatic deputy
6 warden?
7 A. Several.
8 Q. Is that five? Is that ten?
9 A. It depends on the day. I never don't get one.
10 Q. So anywhere between one and, what, ten, fifteen?
11 A. I would be guessing if I gave you a number.
12 Q. But several each day?
13 A. Yes.
14 Q. And would you review those, and respond to them the
15 same day that you received them?
16 A. I can't say I would respond the same day, but
17 within reason.
18 Q. How long would it ordinarily take to respond to a
19 reasonable accommodation request?
20 A. I would tend to respond within 48 hours.
21 Q. And can you give me an approximation of how many you
22 would approve each day?
23 A. I can't.
24 Q. Do you know how many reasonable accommodations for
25 bottom bunks were in effect each day?

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1 A. I don't have that number.
2 Q. But earlier you testified that there are only so many
3 bottom bunks, and you are concerned about providing
4 them. So does that mean that there are enough orders
5 for people to have bottom bunks to reach the total
6 number of bottom bunks available; does that make sense?
7 MS. DAVIS: Let me rephrase.
8 Q. Were there so many bottom bunk orders that you might
9 run out of the bottom bunks?
10 A. That's always a consideration.
11 Q. Are you aware that it had happened at any point?
12 A. No.
13 Q. So at no point while you were the programmatic deputy
14 warden did you actually discover that you had run out
15 of bottom bunks to provide to inmates?
16 A. I never officially ran out of bottom bunks, no.
17 Q. What made you be concerned that you were going to run
18 out of bottom bunks?
19 A. Availability.
20 Q. Was there some point at which you were informed that
21 you might run out of bottom bunks?
22 A. Yes.
23 Q. So, you understand that at some point there was a
24 concern that medium security was not going to have
25 enough bottom bunks available?

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1 A. That's always a concern.
2 Q. Have you ever denied a bottom bunk because you had run
3 out of available bottom bunks?
4 A. No.
5 Q. But you were concerned that you might, and therefore,
6 you did not grant all orders for bottom bunks; is that
7 what you are saying?
8 A. I granted orders on bottom bunks based on the
9 legitimacy of the request.
10 Q. How frequently would you return a request for a bottom
11 bunk to medical requesting more information?
12 A. I don't know.
13 Q. Can you give an approximation, like 50 percent of the
14 requests, or 75 percent, 25 percent, anything?
15 A. I can't.
16 Q. Were there requests that you approved right away,
17 without asking for further information?
18 A. Yes.
19 Q. Why?
20 A. Because the order was legitimate. They sent me the
21 information I received.
22 Q. What information that you received would indicate to
23 you that it was legitimate?
24 A. The medical condition.
25 Q. The medical condition?

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1 A. Yes.
2 Q. So you would look at the condition that was asserted by
3 the medical staff, and decide if you thought it was
4 legitimate, or not?
5 A. Yes.
6 Q. What types of medical conditions did you believe to be
7 legitimate?
8 A. People who have seizure disorders, diabetes, people
9 who are missing limbs.
10 Q. Anything else?
11 A. Elderly.
12 Q. Did you receive bottom bunk requests for conditions
13 that were not permanent?
14 A. Yes.
15 Q. Would you grant those requests, if you believed that
16 they were legitimate?
17 MS. DAVIS: I am sorry. Let me rephrase.
18 Q. What types of impermanent conditions would you grant
19 bottom bunks for, if you can recall?
20 A. Impermanent conditions?
21 Q. Yes. Conditions that were for a short period of time.
22 A. Someone who had a surgery.
23 Q. Anything else?
24 A. Anything that was temporary, gestational. If it
25 was a surgery or someone had a broken limb, yes, we

<p style="text-align: right;">Page 49</p> <p>1 would -- I would approve a bottom bunk for the duration 2 of the healing process. 3 Q. All right. 4 MS. Davis: Can we take a break? 5 (BRIEF RECESS TAKEN) 6 Q. Have you ever received a personal needs accommodation 7 request from anyone, other than medical? 8 A. I don't believe so. 9 Q. Never received one from an inmate directly? 10 A. Inmates do write to me about special needs 11 requests. 12 Q. How do they write to you about special needs request? 13 A. On a request slip. 14 Q. On a request slip? 15 A. On the request slips that are available to the 16 inmate population throughout the facility. It's how 17 they correspond with us, one of the ways. 18 Q. So inmates are allowed to submit requests for 19 information to you directly? 20 A. They follow a chain of command, but ultimately, 21 yes. 22 Q. What is the chain of command? 23 A. Their block officer first. 24 Q. And what is the next step? 25 A. The housing lieutenant where they are at.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Why would you send it to medical, without reviewing it? 2 A. It has not been approved. 3 Q. So you will only consider an accommodation request if 4 it has been approved by medical? 5 A. If it has been generated by medical. 6 Q. Have you ever received any accommodation requests 7 electronically? 8 A. Not that I can recall. 9 Q. Would you be capable of receiving requests 10 electronically? 11 A. In an e-mail from a provider. 12 Q. So medical staff could send you an E-mail directly? 13 A. Yes. 14 Q. Do you receive E-mails from medical staff directly? 15 A. I have. 16 Q. What do they usually concern? 17 A. Meeting times, my request to be at a particular 18 meeting. 19 Q. But it is not, it would not be about an inmate's 20 treatment or an inmate's accommodation? 21 A. It could be. 22 Q. It could be. Do you recall every receiving such an 23 E-mail? 24 A. I don't. 25 Q. Would it be easier for you to receive accommodation</p>
<p style="text-align: right;">Page 50</p> <p>1 Q. And then? 2 A. The shift commander. 3 Q. And then? 4 A. Then me. 5 Q. And then you? 6 A. Well, the administration. 7 Q. When they send slips, are they sending information 8 regarding a previously sent request, or are they 9 submitting new requests? 10 A. Both. 11 Q. So you do receive requests from inmates directly? 12 A. Yes. 13 Q. What types of requests do inmates requesting, what 14 types of accommodations are inmates requesting? 15 A. Inmates request all kinds of things, it is not just 16 accommodations. 17 Q. But do you receive accommodation requests from inmates 18 directly? 19 A. I don't recall if I have, but if I do, I send it to 20 medical. 21 Q. So if you received a request for a reasonable 22 accommodation from an inmates directly, you would not 23 review it or consider it, you would immediately send it 24 to medical; is that correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 requests electronically? 2 A. I don't understand what you are asking me, easier 3 how? 4 Q. Well, would there be any benefits to receiving requests 5 electronically that you could think of? 6 A. Not that I can think of. 7 Q. Would there be any benefit to having an electronic 8 paper trail in regard to accommodation requests? 9 A. Medical has an electronic paper trail. 10 Q. Is there any electronic paper trail, though, for you 11 receiving accommodation requests? 12 A. I am not sure what you are asking. 13 Q. So if medical puts an order or a request, accommodation 14 request into the inmate's electronic medical records, 15 then they print it out; correct? 16 A. I don't know what they do with it, if they print it 17 out. 18 Q. In order to give it to you, they would have to print it 19 out; correct? 20 A. No. They give it to me on a special needs request. 21 It is a separate form. 22 Q. So, they would enter, or they would put a note, if you 23 will, into the medical records indicating that they 24 want or need a special needs accommodation, and then 25 they would fill out a separate form in order to submit</p>

<p style="text-align: right;">Page 53</p> <p>1 it to you; is that what you are saying?</p> <p>2 A. I just get a special request needs form.</p> <p>3 Q. As far as you understand, they would fill out a</p> <p>4 separate request form, and then that's what you see?</p> <p>5 A. Correct.</p> <p>6 Q. But the only way to get that form to you is in paper;</p> <p>7 correct?</p> <p>8 A. That's the way they get it to me, yes.</p> <p>9 Q. So, because they get it to you in paper, there is no</p> <p>10 electronic record of you receiving those requests;</p> <p>11 correct?</p> <p>12 A. When it goes back to medical, they do with it what</p> <p>13 they will. Scan it back into the EMR, potentially.</p> <p>14 Q. So, my question is if for some reason there was a</p> <p>15 notation in the medical records that a medical provider</p> <p>16 wanted to get an accommodation for an inmate, and there</p> <p>17 was no record in the medical file of your handwritten</p> <p>18 note, is there any electronic record of you seeing it?</p> <p>19 A. My signature on the special needs request.</p> <p>20 Q. So, if there is not such a thing, if there isn't a</p> <p>21 record with your signature on it, but there is a</p> <p>22 notation in the medical records that they wanted a</p> <p>23 request, there is it no way to know if you ever saw</p> <p>24 that document?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. So you like getting them in paper?</p> <p>2 A. Yes.</p> <p>3 Q. Why is that? What is it about paper that you like</p> <p>4 better than electronic?</p> <p>5 A. I can put my signature on it.</p> <p>6 Q. Fair enough. Can we go back a little bit to the</p> <p>7 accommodation request for bottom bunks. I think we did</p> <p>8 not finish going through what all of the possible</p> <p>9 security concerns would be. Can you run through that</p> <p>10 one more time, what all of the concerns might be that</p> <p>11 you would be reviewing a bottom bunk request for?</p> <p>12 A. I would be reviewing a housing assignment</p> <p>13 initially.</p> <p>14 Q. What do you mean?</p> <p>15 A. Bottom bunks in medium security, there are 96</p> <p>16 cells, as I testified to, but those bottom bunks on the</p> <p>17 top tiers of those cells are not available for medical</p> <p>18 bottom bunk, so that's one consideration.</p> <p>19 Q. Why not?</p> <p>20 A. It has not been approved by medical to have anyone</p> <p>21 who has an assigned medical bottom to be housed on a</p> <p>22 top tier.</p> <p>23 Q. Why would it matter to medical why there is somebody</p> <p>24 with a bottom bunk that was housed on the top tier?</p> <p>25 A. Because there is a staircase that goes up to a</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. Have you ever recommended to anyone that the special</p> <p>2 needs forms should be different; as in that medical</p> <p>3 providers should include more information?</p> <p>4 A. I have requested more information on a special</p> <p>5 needs request.</p> <p>6 Q. But have you ever requested a change in the protocol,</p> <p>7 in the practice, as in a change to the policy?</p> <p>8 A. Not that I call.</p> <p>9 Q. So you have never told anybody that you find the</p> <p>10 process inadequate; is that correct?</p> <p>11 A. No. I have never told anybody in medical that I</p> <p>12 found it inadequate, no.</p> <p>13 Q. What about anyone in administration?</p> <p>14 A. Not that I can recall.</p> <p>15 Q. Do you think that there should be an electronic record</p> <p>16 as to whether you have seen the accommodation request?</p> <p>17 A. I don't have an opinion on that.</p> <p>18 Q. So you don't think that would improve the system in any</p> <p>19 way to have more accountability, if you will, of</p> <p>20 ensuring that you actually see requests that are</p> <p>21 submitted to you?</p> <p>22 A. I don't have a comment on that.</p> <p>23 Q. Would you prefer that the special needs accommodation</p> <p>24 requests be submitted to you electronically?</p> <p>25 A. I prefer to get them as I got them.</p>	<p style="text-align: right;">Page 56</p> <p>1 tier. If medical is coming in from outside, it is a</p> <p>2 lot more difficult to support someone if they need to</p> <p>3 get them down from there.</p> <p>4 So we are not allowed to put anyone on a bottom</p> <p>5 bunk on a top tier that has a medical bottom bunk</p> <p>6 order, so that eliminates the number that I have.</p> <p>7 Q. How long has that been the policy?</p> <p>8 A. As long as I have been there.</p> <p>9 Q. Are you not permitted in any circumstance to put</p> <p>10 somebody with a medical bottom bunk order on a top</p> <p>11 tier?</p> <p>12 A. To the best of my recollection, yes.</p> <p>13 Q. That's never happened?</p> <p>14 A. I don't know that it has never happened. I can't</p> <p>15 recall that it has ever happened.</p> <p>16 Q. So would a request for a bottom bunk be denied on that</p> <p>17 ground?</p> <p>18 A. I am sorry, on what ground?</p> <p>19 Q. On the ground that you run out of bottom bunks on the</p> <p>20 first tier, and therefore, you do not have any bottom</p> <p>21 bunks available; is that correct?</p> <p>22 A. I have never not had bottom bunks available, but I</p> <p>23 have a limited ability of bottom bunk based on several</p> <p>24 factors. One of them is that I can't put medical</p> <p>25 bottom bunks on a top tier.</p>

<p style="text-align: right;">Page 57</p> <p>1 Q. Are there medical concerns related that might 2 necessitate a bottom bunk that would not affect whether 3 or not somebody could go upstairs? 4 A. I am not sure what you are asking me. 5 Q. So I can understand why, if somebody was medically 6 ordered a bottom bunk because of a broken leg, why that 7 might prevent them from being able to go upstairs to a 8 second tier, but are there other reasons why somebody 9 would be given a bottom bunk that would not affect 10 whether or not they could walk upstairs? 11 A. If there is a bottom bunk ordered medically, they 12 cannot go upstairs. 13 Q. The inmate, or the medical staff? 14 A. The inmate cannot be housed on the top tier if he 15 has an approved bottom bunk order. 16 Q. But I am asking, would there be reasons why it would 17 not matter whether they were on a top tier or a bottom 18 tier? 19 A. Not medically. 20 Q. So, you're saying that regardless of the basis for the 21 bottom bunk order, they are never permitted to be 22 housed on the second tier? 23 A. Correct. 24 Q. And has that ever been the reason why you denied a 25 bottom bunk order?</p>	<p style="text-align: right;">Page 59</p> <p>1 bunk was available in that therapeutic community in 2 order to move that person. 3 Q. So there is no circumstance where somebody who has an 4 approved bottom bunk order would be able to change 5 housing units in order to receive that bottom bunk? 6 A. If someone has a medical bottom bunk order, I am 7 going -- they will be assigned to a housing unit that 8 can accommodate that bottom bunk, if, in fact, it is 9 available. 10 Q. So I am sorry. I don't think I understand what you 11 were saying about sex offender and the drug treatment 12 programs. How does those factor in? 13 A. That eliminates, they are therapeutic communities, 14 so people who have a specific crime live in those 15 communities, because that's where their programs are. 16 So, anyone who is a sex offender in medium security 17 and is involved in the sex offender treatment program 18 is living in F Mod, which is a 96-bed unit. 19 So, some of those offenders in that program have 20 medical bottom bunk orders, and it eliminates the 21 number of housing units I can put the general 22 population inmates in that have medical bottom bunk 23 order. 24 Q. Within F Mod, how many first tier cells are there? 25 A. On each side?</p>
<p style="text-align: right;">Page 58</p> <p>1 A. No. 2 Q. If you had a bottom bunk on a second tier available, 3 would you grant a bottom bunk order, or are you saying 4 that it would not be able to be implemented? 5 A. I would not put an inmate that's got a medical 6 bottom bunk order on the second tier. I would put 7 general population inmates on the second tier. 8 Q. But who makes that decision of where to put them? 9 A. The housing lieutenants. 10 Q. So it is possible that you would have granted an order 11 for a bottom bunk, and so they have an approved order 12 for a bottom bunk, but then they do not receive that 13 bottom bunk because there are not enough bottom bunks 14 available on the first tier? 15 A. Yes. They would wait for an available bottom bunk, 16 especially if it is a medical bottom bunk for a person 17 who is in one of the therapeutic communities in the 18 building. 19 Q. What do you mean by any of the therapeutic communities? 20 A. I have two housing areas where both sides are a 21 therapeutic community; one of them is the sex offender 22 treatment program, and the other is a drug treatment 23 program. So, if an inmate had a medical bottom bunk, 24 but was enrolling in the sex offender treatment 25 program, I would have to wait until a medical bottom</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Yes. 2 A. There's 48. 3 Q. There are two sides to the F Mod? 4 A. There are two sides to all housing units, yes. 5 Q. So, someone who was a sex offender and received a 6 bottom bunk order would only be allowed to be able to 7 be assigned to a bunk in F Mod? 8 A. Correct. 9 Q. And, therefore, if they have had a bottom bunk order, 10 they would only be able to be assigned bottom bunk 11 within the first tier of F Mod; is that what you're 12 saying? 13 A. Yes. 14 Q. There is no circumstance where a sex offender would be 15 assigned to a different mod? 16 A. In some cases, the sex offender treatment program 17 may do individual treatments with someone on another 18 mod until they are able to be housed in F Mod that's on 19 the program. 20 Q. So, are there inmates that are in those programs that 21 are not housed in those specific mods at any point? 22 A. Yes. 23 Q. Can you explain when and why? 24 A. If someone has a medical bottom bunk order, but it 25 is assigned to the sex offender treatment program, I</p>

<p style="text-align: right;">Page 61</p> <p>1 can't move them to the mod that the therapeutic 2 community exists in if there is not a bottom bunk for 3 them, they are all taken. 4 Q. So what would, essentially, win out, would the bottom 5 bunk order be more important than the sex offender 6 treatment program, or vice versa? 7 A. If there is an approved medical bottom bunk order, 8 that would take priority, yes. 9 Q. So they would be able to be assigned to a different mod 10 if they had an approved bottom bunk? 11 A. Until a bed is available. 12 Q. Until a bed is available in the sex offender mod? 13 A. Um-umm. 14 (REPORTER ASKS FOR CLARIFICATION) 15 A. Yes. 16 Q. While they are housed in a different mod, would they 17 not be able, or would that kick them out of the program 18 for some reason; would they not be able to participate 19 in the program? 20 A. No. 21 Q. They would still have access to all of the aspects of 22 that treatment program that they ordinarily would if 23 they were housed in that mod; right? 24 A. To my knowledge, the sex offender treatment program 25 clinician reach out to those individuals, and work out</p>	<p style="text-align: right;">Page 63</p> <p>1 do with security concerns? 2 A. It is safety and security in combination. If 3 someone has a bottom bunk order because they have a 4 spinal injury that prevents them from climbing the 5 ladder to the top bunk, I would be reluctant to offer 6 them a job assigned in the yard shovelling snow and 7 mowing grass. It is something that might affect his 8 medical condition, so I would take those into 9 consideration. 10 Q. How would that affect your review of granting an order 11 for a bottom bunk? 12 A. Like I said, I take all kind of things into 13 consideration. It is not just approving the bottom 14 bunk. It is what other restrictions go along with it. 15 Q. What else might you consider in conducting that 16 evaluation? 17 A. Specific jobs within the facility, the specific 18 ability or inability to work out, to play organized 19 sports. 20 Q. What else? 21 A. And/or what types of jobs can they have, could this 22 person have, given their medical condition. 23 Q. What else might you consider, anything else? 24 A. Again, it is the safe and orderly running of the 25 facility, availability, gang issues, enemy issues,</p>
<p style="text-align: right;">Page 62</p> <p>1 their treatments separately that would be for them. 2 Q. All right. So I think we were running through what all 3 of the possible security concerns are for a bottom bunk 4 order. So we have gone through whether or not the 5 order was legitimate and whether or not there were 6 gang-related issues, and now we have talked about 7 whether or not they were assigned to a particular 8 treatment program, are there any other security-based 9 concerns for a request for a bottom bunk? 10 A. Considerations, other considerations would come 11 into play when someone is being requested for a bottom 12 bunk, job assignments. 13 Q. How so, why would that be a concern when you were 14 reviewing a bottom bunk request? 15 A. Depending on what the request is for, one of my 16 concerns would be could they hold a job, or would they 17 be restricted from specific jobs because of their 18 medical conditions. Would they be restricted from any 19 type of physical activity, like weightlifting, because 20 of the nature of their bottom bunk order, and I request 21 medical to provide that for me so I can ensure their 22 safety within the facility. 23 Q. The inmates' safety? 24 A. Correct. 25 Q. What would the concern be about holding a job have to</p>	<p style="text-align: right;">Page 64</p> <p>1 jobs, programmatic concerns, programmatic needs. 2 Q. Any other specific security related concerns; as in, 3 are there any specific aspects to granting a bottom 4 bunk that might present a safety issue? 5 A. Climate issue. 6 Q. What do you mean by that? 7 A. Well, as I stated, the legitimacy of the medical 8 bottom bunk request is really important to ensure that 9 it is legitimate. If there is an offender who has a 10 legitimate need for a bottom bunk, and there is another 11 offender who is in one that does have a legitimate 12 need, that could cause a climate issue. 13 Q. I don't understand what do you mean by a climate issue? 14 A. Within the inmate population itself. 15 Q. Meaning, hostilities between inmates? 16 A. Correct. 17 Q. Can you explain to me what medical conditions you would 18 consider legitimate for granting a bottom bunk? 19 A. Which ones I would consider legitimate? Seizure 20 disorders, diabetes, missing limbs. 21 Q. What else? 22 A. Inability to climb a ladder for whatever reason. 23 Q. Such as? 24 A. The need for hand braces, neck brace, knee brace. 25 For whatever their condition is, that condition would</p>

<p style="text-align: right;">Page 65</p> <p>1 be presented to me.</p> <p>2 Q. Would that include like nerve issues in the neck, or</p> <p>3 anything like that?</p> <p>4 A. Not necessarily.</p> <p>5 Q. So what else do you consider legitimate?</p> <p>6 A. Like I said, anything that prevents a person's</p> <p>7 ability to climb a ladder.</p> <p>8 Q. What else; anything else?</p> <p>9 A. The two biggest ones I deal with are seizure</p> <p>10 disorders and people that suffer or have diabetes.</p> <p>11 Q. Are there any legitimate, what you consider legitimate,</p> <p>12 concerns that would allow you to grant the bottom bunk</p> <p>13 that would not affect their ability to climb stairs, as</p> <p>14 in, if somebody could not climb a ladder, might they</p> <p>15 still be able to climb stairs?</p> <p>16 A. I don't know. I can't answer whether someone could</p> <p>17 climb a ladder or climb stairs.</p> <p>18 Q. But you can make that determination when you are</p> <p>19 determining an order as legitimate?</p> <p>20 A. The stairs would not be an issue if the order is</p> <p>21 going to be legitimate because they won't go on a top</p> <p>22 tier.</p> <p>23 Q. I am asking if it would be possible to put somebody in</p> <p>24 a top tier that has a bottom bunk order because their</p> <p>25 condition might not have any effect on their ability to</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. I think you testified earlier to the fact that you</p> <p>2 would grant a bottom bunk order for something like a</p> <p>3 surgery or a broken limb for the duration of the</p> <p>4 healing process; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Whose determination would decide the duration of the</p> <p>7 healing process?</p> <p>8 A. Medical.</p> <p>9 Q. So, you would not have any input on how long it might</p> <p>10 take for an inmate to heal from such an injury or</p> <p>11 surgery?</p> <p>12 A. Medical would make that determination.</p> <p>13 Q. So if medical sent you a request for a bottom bunk</p> <p>14 accommodation, and it had a particular duration, would</p> <p>15 you change that duration for any reason?</p> <p>16 A. If medical said someone needed a medical bottom</p> <p>17 bunk for three months, then I would typically write on</p> <p>18 that slip review in three months.</p> <p>19 Q. So you would not unilaterally change the date on that</p> <p>20 order?</p> <p>21 A. Not without reaching out to medical, no.</p> <p>22 Q. Have you ever changed a date unilaterally on a</p> <p>23 reasonable accommodation request?</p> <p>24 A. I have asked for earlier reviews.</p> <p>25 Q. So you have never written on an order a change in date?</p>
<p style="text-align: right;">Page 66</p> <p>1 climb stairs?</p> <p>2 A. If they have a medical bottom bunk order, they are</p> <p>3 not going to go on the top tier.</p> <p>4 Q. I understand that is the policy, but would it be</p> <p>5 possible to change the policy?</p> <p>6 A. I am not at liberty to determine whether a policy</p> <p>7 gets changed.</p> <p>8 Q. Would it be possible to put somebody in the second</p> <p>9 tier, even if it is against the policy?</p> <p>10 A. I have no recollection of that. I can't answer</p> <p>11 that. I have never put anybody on a top tier bottom</p> <p>12 bunk that has a medical bottom bunk order.</p> <p>13 Q. Have you ever had inmates that had a bottom bunk order</p> <p>14 that were not given a bottom bunk for any reason?</p> <p>15 A. That had a legitimate one?</p> <p>16 Q. That had an approved order for a bottom bunk, were they</p> <p>17 ever not given a bottom bunk?</p> <p>18 A. I don't recall.</p> <p>19 Q. All right. Are there any other examples of legitimate</p> <p>20 reasons why you might not grant -- why you might grant</p> <p>21 a bottom bunk, any other reasons that you consider</p> <p>22 legitimate, besides seizure disorders, diabetes, broken</p> <p>23 limbs, and the inability to climb a ladder, anything</p> <p>24 else that you can think of?</p> <p>25 A. Not off the top of my head.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I don't recall.</p> <p>2 Q. How would the review occur, if you requested a review?</p> <p>3 A. Medical would regenerate a special needs request to</p> <p>4 me.</p> <p>5 Q. So, essentially, it submits a new request?</p> <p>6 A. Yes.</p> <p>7 Q. So the review process is entirely up to whether or not</p> <p>8 medical decides to send you a request?</p> <p>9 A. Medical sends me a request, say, because it is</p> <p>10 surgery, they are going to make a suggestion to me for</p> <p>11 likely how long that should be for. I will typically</p> <p>12 write to review in that amount of time, whatever it may</p> <p>13 be.</p> <p>14 Q. Would that mean that if medical did not submit a new</p> <p>15 request, the order would expire?</p> <p>16 A. Yes.</p> <p>17 Q. How are orders, once they are approved, how are they</p> <p>18 implemented?</p> <p>19 A. When I approve a special needs request, I send it</p> <p>20 back to medical. Medical does what they do with the</p> <p>21 form for their record purposes, and the original with</p> <p>22 my red ink signature goes to the offender.</p> <p>23 Q. How does it get to the offender?</p> <p>24 A. Medical gives it to them.</p> <p>25 Q. So you send the only copy of the signed approved order</p>

<p style="text-align: right;">Page 69</p> <p>1 to medical, and medical is responsible for distributing 2 it? 3 A. Yes. 4 Q. Who does medical distribute it to, just the inmate? 5 A. The individual himself, correct. 6 Q. Medical does not at any point send it to the 7 correctional staff? 8 A. No. 9 Q. How does the order get implemented by an assignment of 10 the bunk? 11 A. When the order is given to the offender, the 12 offender presents that order to the housing lieutenant 13 in his area. 14 Q. The only way for the order to be implemented is if the 15 approved order is given to the inmate, and the inmate 16 has to personally give it to the housing lieutenant; is 17 that correct? 18 A. Yes. The inmate is responsible for keeping that 19 medical order either on his person or when he is in 20 housing unit on the door of his cell in a clear packet. 21 Q. So if the inmate were to not receive an approved order, 22 it would not get implemented; is that correct? 23 A. If the inmate did not receive it? 24 Q. Yes. 25 A. It won't get implemented until the inmate receives</p>	<p style="text-align: right;">Page 71</p> <p>1 responsible for ensuring that that happens? 2 A. Medical can reach out to the housing lieutenant and 3 say this person has been given a medical bottom bunk 4 order, and the lieutenant will now need to accommodate 5 that order to the best of his or her ability. 6 Q. Do the housing lieutenants ever consult with you about 7 bunk assignments? 8 A. Yes. 9 Q. What do they consult with you about in regard to bunk 10 assignments? 11 A. Just mostly just to review. We have certain 12 inmates that can't live with other inmates. 13 They may come to me and ask if they can put them in 14 another block until a better, a more available, or a 15 better bunk is available. It's for any number of 16 reasons, but it is, ultimately, their responsibility. 17 It is in their post orders to assign bunks. 18 Q. When did you first become aware of this lawsuit? 19 A. I don't remember. 20 Q. Were you at some point served with the complaint of the 21 lawsuit? 22 A. Yes. 23 Q. Did you read the complaint at that time? 24 A. I did. 25 Q. When you received the complaint, did you do anything</p>
<p style="text-align: right;">Page 70</p> <p>1 the copy in red by me. 2 Q. Are you aware of any time when an inmate has not 3 received an order that you have approved? 4 A. Not that I can recall. 5 Q. Have you ever followed up on an order that you approved 6 to make sure that an inmate received it? 7 A. Not that I can recall. 8 Q. So you assume that everybody is following the correct 9 process; is that correct? 10 A. I am not making assumptions. I don't recall. 11 Q. Do you believe that it would be your responsibility to 12 ensure that an order that you approved is implemented? 13 A. My responsibility is to approve or deny that order. 14 Once it goes back to medical, it is implemented through 15 the medical process. 16 Q. But medical can't tell a correctional staff what to do; 17 is that correct? 18 A. They work together. They don't tell them what to 19 do, no. 20 Q. Is there any single person within that process who 21 might be responsible for ensuring the complete 22 implementation of the process? 23 A. The medical staff. 24 Q. Even though it is the correctional staff's job to 25 assign bunks, you are saying that medical would be</p>	<p style="text-align: right;">Page 72</p> <p>1 after reading it? 2 A. Contacted our legal department. 3 Q. Did you conduct any sort of investigation after 4 receiving or becoming aware of the lawsuit? 5 A. No. 6 Q. Are you aware of the allegations that are being made in 7 the complaint? 8 A. Yes. 9 Q. What do you understand to be the allegations? 10 A. That I denied a bottom bunk for Stephen Melise. 11 Q. And do you understand why that might have been 12 problematic or illegal? 13 MR. SULLIVAN: Objection. 14 Q. Do you know why the fact that you denied the bottom 15 bunk would be a problem? 16 A. I am not sure what you are asking. 17 Q. Do you understand that there was an injury caused by 18 the fact that you denied a bottom bunk? 19 A. I can acknowledge there was an injury caused, but 20 as to the nature of how, I cannot. 21 Q. What do you understand to be the nature of the 22 allegation in regard to the Department of Corrections 23 as a whole, if you do? 24 A. I don't. 25 Q. Were you ever questioned by anybody in regard to what</p>

<p style="text-align: right;">Page 73</p> <p>1 happened to the plaintiff in this case?</p> <p>2 A. No.</p> <p>3 Q. Did you complete a report regarding what happened to</p> <p>4 the plaintiff?</p> <p>5 A. No.</p> <p>6 Q. Are you aware that the plaintiff was injured when he</p> <p>7 rolled off the top bunk while sleeping on November 30,</p> <p>8 2015?</p> <p>9 A. I am aware that he was injured, yes.</p> <p>10 Q. Are you aware that he was injured when he rolled off</p> <p>11 the top bunk while sleeping on June 21, 2016?</p> <p>12 A. I don't recall.</p> <p>13 Q. Are you aware that the plaintiff was injured when he</p> <p>14 rolled off the top bunk while sleeping on</p> <p>15 November 11th, 2016?</p> <p>16 A. I don't recall.</p> <p>17 Q. Were you aware that he, the plaintiff, was injured on</p> <p>18 three separate occasions?</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you ever at any point hold a triage meeting in</p> <p>21 regard to Stephen Melise?</p> <p>22 A. I held triage meetings. I don't recall whether he</p> <p>23 came up.</p> <p>24 Q. Did you ever consult with any medical staff in regard</p> <p>25 to special needs orders specific to Stephen Melise?</p>	<p style="text-align: right;">Page 75</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you recall ever speaking with Dr. Salas about</p> <p>3 medical orders?</p> <p>4 A. Dr. Salas would come to the triage meeting, and</p> <p>5 correspondences that I would have with him would</p> <p>6 typically be through the triage meeting.</p> <p>7 Q. Has Dr. Salas ever indicated to you that he felt that</p> <p>8 there were orders not being approved that should have</p> <p>9 been?</p> <p>10 A. I don't recall.</p> <p>11 Q. Has any medical staff ever made any comment to you in</p> <p>12 regard to orders not being approved?</p> <p>13 A. I don't recall.</p> <p>14 Q. So you do not recall anybody ever complaining to you</p> <p>15 about orders not being approved?</p> <p>16 A. Orders that are approved are approved when I have</p> <p>17 enough information to make an educated decision, that</p> <p>18 would be the correspondence I would have. I request</p> <p>19 more information.</p> <p>20 Q. Nobody has ever made any sort of general comments,</p> <p>21 saying we have made a lot of orders, and they get</p> <p>22 denied?</p> <p>23 A. Not that I recall, no.</p> <p>24 Q. Do you know the plaintiff in this case personally, Mr.</p> <p>25 Stephen Melise?</p>
<p style="text-align: right;">Page 74</p> <p>1 A. If I did, it would be to request more information.</p> <p>2 Q. Which would have been by writing a note on the request;</p> <p>3 is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. So, do you ever recall discussing matters related to</p> <p>6 Stephen Melise one-on-one with any medical staff?</p> <p>7 A. I don't recall.</p> <p>8 Q. Do you ever recall consulting with Dr. Jennifer Clarke</p> <p>9 in regard to his special needs orders?</p> <p>10 A. I don't recall if I have discussed Stephen Melise</p> <p>11 with Dr. Clarke, no.</p> <p>12 Q. Have you ever discussed personal needs accommodation</p> <p>13 requests, in general, with Dr. Jennifer Clarke?</p> <p>14 A. Yes.</p> <p>15 Q. What is the nature of your discussions?</p> <p>16 A. Mainly just what types of orders medical staff</p> <p>17 gives to us for approval, the number of them they give</p> <p>18 to us for approval.</p> <p>19 Q. What aspect of the numbers is of a concern?</p> <p>20 A. Sometimes orders that come through to us that don't</p> <p>21 have a lot of legitimacy to them, and I work with Dr.</p> <p>22 Clarke as the medical director.</p> <p>23 Q. Have you talked to any medical staff, other than Dr.</p> <p>24 Jennifer Clarke, in regard to legitimacy of special</p> <p>25 needs orders?</p>	<p style="text-align: right;">Page 76</p> <p>1 A. I know of him.</p> <p>2 Q. You have never spoken to him directly?</p> <p>3 A. I am sure I have at some point.</p> <p>4 Q. But you do not remember?</p> <p>5 A. I don't remember having a conversation with him,</p> <p>6 no.</p> <p>7 Q. All right. So now we get to the fun part. If you were</p> <p>8 to have more orders of bottom bunks than you had</p> <p>9 available of bottom bunks, what would you do about</p> <p>10 that, if anything?</p> <p>11 A. If I had orders and I don't have bottom bunks?</p> <p>12 Q. Yes.</p> <p>13 A. That has not come to me yet.</p> <p>14 Q. You have never had more bottom bunk orders than</p> <p>15 available bottom bunks; is that what you are testifying</p> <p>16 to?</p> <p>17 A. We haven't gotten to an actual, completely out of</p> <p>18 bottom bunk issue yet.</p> <p>19 Q. Does that mean it's specific to, like, first tier</p> <p>20 bottom bunks, have you ever run out of first tier</p> <p>21 bottom bunks for inmates that have approved medical</p> <p>22 orders?</p> <p>23 A. I don't know.</p> <p>24 Q. If you did, would you be able to move inmates between</p> <p>25 facilities?</p>

<p style="text-align: right;">Page 77</p> <p>1 A. Not based on medical. If we cannot accommodate 2 somebody, we have to do our absolute best to 3 accommodate them within our facility. 4 Q. Would that include putting them on a bottom bunk on a 5 second tier? 6 A. No. 7 Q. Why not? 8 A. If they have an approved medical bottom bunk, I am 9 not going to put them on a second tier. 10 Q. Even if you run out of bottom bunks in the first tier? 11 A. Correct. 12 Q. So you would assign somebody with an approved medical 13 bottom bunk order to a top bunk because they can't be 14 on the second tier; is that what you are saying? 15 A. I have not -- if I have approved a medical bottom 16 bunk, to the best of my knowledge, we have found a 17 medical bottom bunk in the facility. 18 I have not completely exhausted all bottom tiered 19 medical bottom bunks as of yet. 20 Q. If you did, would you put them on a top bunk, or would 21 you put them on a bottom bunk in a second tier? 22 A. I would work with medical. 23 Q. What does that mean? 24 A. I would go through Dr. Clarke, and see if there was 25 anyone that is on a bottom bunk medically that may be</p>	<p style="text-align: right;">Page 79</p> <p>1 bottom bunk. 2 Q. And that would include for any necessary reasonable 3 accommodation, is that what you are saying? Medical 4 would decide if somebody could be moved to a different 5 facility or should be moved to a different facility if 6 they have the necessary reasonable accommodation that 7 could not be accommodated in, for instance, medium 8 security? 9 MR. SULLIVAN: Objection to form. 10 MS. DAVIS: You can stoll go ahead and 11 answer. 12 MR. SULLIVAN: You can answer. 13 A. Oh, I am not sure exactly what you are asking me. 14 I am sorry. 15 Q. If an inmate had an approved necessary reasonable 16 accommodation that could not be accommodated in medium, 17 could they be moved to a different facility? 18 A. What medical accommodation are you referring to? 19 Q. Any type of reasonable accommodation. 20 A. That would be up to medical. 21 Q. So it would also be up to medical whether an inmate 22 with a necessary reasonable accommodation that could 23 not be accommodated in medium needed to be moved? 24 A. Yes. That would go to medical. 25 Q. And medical decides where to send them?</p>
<p style="text-align: right;">Page 78</p> <p>1 able to come off, an order has been expired, it's no 2 longer necessary, but medical would make that 3 determination. 4 Q. Was there any other reason why you might, or is it 5 possible to move inmates to other facilities for 6 medical reasons? 7 A. Is it possible to move them for medical reasons? 8 Q. Yes. 9 A. Yes. It is possible. 10 Q. Would you, is it possible, or can they be moved to a 11 different facility for reasonable accommodation 12 purposes? 13 A. They are moved to the intake service center for 14 treatment purposes, that's medical. 15 Q. For how long? 16 A. Depending on what their issue is. 17 Q. Would it be just for the duration of the medical issue, 18 or could it be on a more permanent basis? 19 A. That's up to medical. 20 Q. It's up to medical whether or not somebody goes to a 21 different facility? 22 A. It is up to medical to determine if they need to go 23 to a facility that has an actual hospital in it, for 24 treatment. They are not going to the intake service 25 center to be housed there because they have a medical</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Medical would decide if it was a legitimate request 2 to send them. It is based on medical, it is going to 3 come from medical. 4 Q. Whose decision is it ultimately to move inmates between 5 facilities? 6 A. That depends. 7 Q. What does it depend on? 8 A. It depends on what the incident is. It depends on 9 what the medical issue is. It depends on what the lack 10 of reasonable accommodation exists or does not exist. 11 All cases are going to be very individual. 12 Q. But you are saying that the correctional staff could be 13 involved in the decision to move an inmate for 14 reasonable accommodation purposes? 15 A. The administration would be involved in a decision, 16 the warden. 17 Q. Have you ever denied an order for a bottom bunk for 18 inmates, other than the plaintiff in this case? 19 A. I don't recall. 20 Q. You do not recall ever denying an order for a bottom 21 bunk? 22 A. Yes. I am sure I have. I just don't recall anyone 23 in particular. 24 Q. Do you know how many approximately? 25 A. I don't.</p>

<p style="text-align: right;">Page 81</p> <p>1 Q. What do you consider to be illegitimate medical 2 conditions to be granted a bottom bunk? 3 A. Illegitimate medical conditions? 4 Q. You testified that you review whether or not bottom, 5 whether reasonable accommodation are requested for 6 legitimate reasons; what do consider to be illegitimate 7 reasons? 8 A. It would be a request for a bottom bunk where the 9 need is not documented medically. They cannot provide 10 me more information to make an educated decision based 11 on medical, it's based on self-reporting. 12 Q. Can you determine just from looking at the request that 13 is sent to you whether or not an order is illegitimate? 14 A. If the request says just bottom bunk, I am going to 15 request more information. 16 Q. Would you ever deny one without requesting more 17 information? 18 A. I would request more information before I denied 19 it. 20 Q. When you request more information, how do you receive 21 more information? Is it on the order itself? Is it 22 over the phone? Is it an E-mail? 23 A. It is typically on the form itself, either written 24 on the form itself, or in some cases, a sticky note. 25 Q. Did you ever receive more information, other than</p>	<p style="text-align: right;">Page 83</p> <p>1 (OFF THE RECORD) 2 Q. When is this order dated? 3 A. 11/12. 4 Q. And what are the handwritten notifications on the 5 document? 6 A. Mine are need more information, and then approved. 7 Q. When did you receive this document? 8 A. On or around 11/12. 9 Q. What are the other notations on the document? 10 A. There is a document on the bottom of the page. 11 Q. Can you read it? 12 A. "Severe pain, osteoarthritis neck on x-ray." 13 Q. By looking at this document, can you explain why you 14 asked for more info.? 15 A. Because initially it just said bottom bunk, neck 16 pain. 17 Q. Why would that require more info.? 18 A. Because neck pain is not enough information for me 19 to go on. 20 Q. Would you say that that is an illegitimate reason in 21 your determination? 22 A. That's a request for needing more information. 23 Q. And what was the basis for you saying that you received 24 it on or around November 12th? 25 A. That's when the order is.</p>
<p style="text-align: right;">Page 82</p> <p>1 having it written on the form? 2 A. Not that I can recall. 3 Q. So, you have never had a medical provider call you, and 4 say, hey, here is why I think this person needs a 5 reasonable accommodation? 6 A. I may have, but I don't remember. 7 MS. DAVIS: Anybody want to take a break 8 before we get to documents? 9 MR. SULLIVAN: Yes. 10 MS. STOWELL: Yes. 11 MS. DAVIS: Let's take a break. 12 (BRIEF RECESS TAKEN) 13 MS. DAVIS: So, well have this marked as 14 Exhibit 1. 15 EXHIBIT 1, PLAINTIFF'S, MARKED FOR I.D. 16 Q. Can you identify that document? 17 A. Yes. 18 Q. What is it? 19 A. It is the special needs request. 20 Q. For? 21 A. Stephen Melise. 22 Q. What is the request for? 23 A. Bottom bunk. 24 MR. SULLIVAN: I think you are missing a 25 copy.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. So, you assumed that the order was provided to you on 2 the day it was completed? 3 A. That would be an assumption, yes. 4 Q. The notation at the bottom for severe pain 5 osteoarthritis, neck on x-ray, did that provide to you 6 sufficient information to approve the document, or the 7 order? 8 A. Well, it told me that he had osteoarthritis in his 9 neck. 10 Q. Was that sufficient for you to make the decision to 11 approve it? 12 A. I opposed a proved it. 13 Q. So, are you saying that that information in your mind 14 was enough of a legitimate reason to grant a bottom 15 bunk? 16 A. Yes. 17 Q. Had you ever granted a request for a bottom bunk that 18 was only given the reason of neck pain? 19 A. I don't recall. 20 Q. Can you explain why you approved this order? 21 A. It was a request for a bottom bunk. I asked for 22 more information. More information was given to me, 23 and I approved it. 24 Q. Was there any security based concern about this order? 25 A. Not that I can recall.</p>

<p style="text-align: right;">Page 85</p> <p>1 Q. So on the face, this order would not, or this request 2 for a bottom bunk would not present to you any security 3 concerns; is that what you are saying? 4 A. Correct. If I am giving more information that I 5 can make a decision based on, then I would approve it. 6 Q. So with this notation at the bottom, it did not present 7 any sort of security concerns? 8 A. I just needed more information. 9 Q. Did it present a security concern before the notation 10 on the bottom was written? 11 A. I just needed more information. 12 Q. So prior to receiving more information, was there a 13 security concern related to this request? 14 A. There was a lack of information concern. 15 Q. Why was that relevant to security? 16 A. Because I needed more information to be able to 17 approve a bottom bunk. 18 Q. Why do you think it took from November 12th to 19 November 19th to approve this order? 20 A. When I got it, I put the need for more information, 21 and I sent it back to medical. By the time they sent 22 it back to me and I signed it, it was 11/19/14. 23 Q. Do you have any recollection of how long it took you to 24 review it and request more information? 25 A. No.</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. Do understand why this document was submitted to you? 2 A. They were requesting a bottom bunk. 3 Q. Would it have been normal for them to submit this order 4 to you prior to the expiration of the prior order? 5 A. In some cases. 6 Q. So would it have concerned you why they submitted this 7 to you on the date that they did? 8 A. No. 9 Q. Why did you decide that you needed more information? 10 A. I don't recall. It says just bottom bunk, neck 11 pain. 12 Q. Does the fact that you had originally approved an order 13 for the same reason affect your review of this order? 14 A. No. 15 Q. Would you have remembered that you had initially 16 approved an order for the same person for the same 17 thing? 18 A. No. 19 Q. By looking at it, can you tell what happened with this 20 document? 21 A. I needed more information, and whoever wrote that 22 note to me wanted me to schedule a time. 23 Q. Do you know if this order was ever approved? 24 A. I don't. 25 Q. Is it fair to say that it was not approved if there is</p>
<p style="text-align: right;">Page 86</p> <p>1 Q. When was this order set to expire? 2 A. 2/12/15. 3 Q. So if you approved this on November 19, 2014, and it 4 was set to expire on February 12, 2015, does that mean 5 that Mr. Melise would have been placed in a bottom bunk 6 between those dates? 7 A. According to this, yes. 8 Q. Do you have any reason to believe, or any reason to 9 think that it would not have been implemented? 10 A. Not that I can recall. 11 Q. Is there any legitimate basis for not implementing this 12 once it is approved? 13 A. Not that I can recall. 14 Q. Okay. 15 MS. DAVIS: Exhibit 2. 16 EXHIBIT 2, PLAINTIFF'S, MARKED FOR I.D. 17 Q. What is this document? 18 A. This is an administrative note. 19 MR. SULLIVAN: Just for the record, she 20 is referring to Exhibit 2. 21 Q. Yes. I am sorry. Exhibit 2, can you identify this 22 document? 23 A. Yes. 24 Q. When was this document dated? 25 A. 2/9/2015.</p>	<p style="text-align: right;">Page 88</p> <p>1 no indication that it was approved? 2 A. I don't know if it was approved. 3 Q. If it was not specifically approved by you, is it fair 4 to say that it was never implemented? 5 A. If it was not specifically approved by me, it does 6 not mean in my absence it could not have gone to 7 another administrator. 8 Q. What other administrator has the authority to review 9 these orders? 10 A. My coworker deputy or the warden himself. 11 Q. So in your absence, they could go to a different 12 administrator for approval? 13 A. Yes. 14 Q. Does that happen regularly? 15 A. It happens when one or the other of us is not 16 available, or is out on vacation. We do not want the 17 orders to just sit. 18 MS. DAVIS: Exhibit 3, please. 19 EXHIBIT 3, PLAINTIFF'S, MARKED FOR I.D. 20 Q. Do you recognize this document? 21 A. Administrative note. 22 Q. When was it dated? 23 A. 6/9/2015. 24 Q. Was this a request for a reasonable accommodation? 25 A. Bottom bunk.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. And what are the notations on this document?</p> <p>2 A. More information, and then denied by me.</p> <p>3 Q. What was the date it was denied?</p> <p>4 A. 6/19.</p> <p>5 Q. 2015; is that correct?</p> <p>6 A. I am sorry, 2015. Yes.</p> <p>7 Q. What are the other handwritten notes on it; can you</p> <p>8 please read them?</p> <p>9 A. "Osteoarthritis neck."</p> <p>10 Q. Does that say severe pain, maybe?</p> <p>11 A. Maybe.</p> <p>12 Q. And the date right above the osteoarthritis neck is</p> <p>13 6/12/2015?</p> <p>14 A. I am sorry.</p> <p>15 Q. The date just above osteoarthritis?</p> <p>16 A. Oh, "6/12."</p> <p>17 Q. So is it reasonable to infer from this that this</p> <p>18 document was submitted to you on 6/9/2015. At some</p> <p>19 date on 6/9/2015, you requested more information, and</p> <p>20 on 6/12, it was sent back to you, and then it was</p> <p>21 denied on 6/19; does that appear to be what happened</p> <p>22 with this document?</p> <p>23 A. Yes.</p> <p>24 Q. Can you explain why you denied the document, or why you</p> <p>25 denied the request?</p>	<p style="text-align: right;">Page 91</p> <p>1 that time.</p> <p>2 Q. I am sorry. Can you explain what that means?</p> <p>3 A. He has the capability of climbing to the top tier,</p> <p>4 based on this information. I don't see any reason why</p> <p>5 he would not be able to. I am not sure why I would</p> <p>6 have approved it once and denied it a second time, if</p> <p>7 he could climb a ladder, I would deny it.</p> <p>8 Q. Does it matter for security purposes why the medical</p> <p>9 staff submitted an order for a special needs</p> <p>10 accommodation?</p> <p>11 A. Yes, based on availability of bottom bunks.</p> <p>12 Q. When you are looking at this order, would you look at</p> <p>13 how many bottom bunks were available at that time?</p> <p>14 A. No.</p> <p>15 Q. You would just assume that there is a limitation on</p> <p>16 bottom bunks, and deny this order based on that</p> <p>17 assumption; is that what you are saying?</p> <p>18 A. I have a lieutenant that keeps a list of all of the</p> <p>19 bottom bunks in the building.</p> <p>20 Q. Would you review that list?</p> <p>21 A. We usually review that list at our triage meetings,</p> <p>22 yes.</p> <p>23 Q. So, at any given time, did you have an understanding of</p> <p>24 how many bottom bunks might be available for people who</p> <p>25 needed a reasonable accommodation?</p>
<p style="text-align: right;">Page 90</p> <p>1 A. I don't know at the time. I don't know.</p> <p>2 Q. Can you, by looking at it, can you explain what you</p> <p>3 might have thought after looking at this document?</p> <p>4 A. Although he appears he has osteoarthritis in his</p> <p>5 neck, it does not mean he can't climb a ladder.</p> <p>6 Q. Would that be the only reason why he would request a</p> <p>7 bottom bunk, or that the medical provider would request</p> <p>8 a bottom bunk for him?</p> <p>9 A. That's the only reason they gave.</p> <p>10 Q. I mean, the fact that he could not climb a ladder, is</p> <p>11 that the only reason why the medical provider might</p> <p>12 request a bottom bunk?</p> <p>13 A. I don't know.</p> <p>14 Q. So you are not sure what the medical basis would be for</p> <p>15 them to request that he was on the bottom bunk; is that</p> <p>16 correct?</p> <p>17 A. Based on the information they gave me, no.</p> <p>18 Q. Now, is this notation in response to your request for</p> <p>19 more information the same as the previous order -- or,</p> <p>20 I am sorry, the same as the response on Exhibit 1?</p> <p>21 A. Yes.</p> <p>22 Q. But you approved it on Exhibit 1, and you denied it on</p> <p>23 Exhibit 3; can you explain why that might be?</p> <p>24 A. Very possibly we were adding -- we were adding</p> <p>25 ladders to the blocks at the time. It was right around</p>	<p style="text-align: right;">Page 92</p> <p>1 A. I don't recall.</p> <p>2 Q. So, when you are reviewing this document, you are</p> <p>3 thinking that there might be a limitation on bottom</p> <p>4 bunks, and therefore, you would deny this order; is</p> <p>5 that what you are saying?</p> <p>6 A. No. I am thinking I don't -- when I signed this</p> <p>7 particular order, I didn't feel like I had enough</p> <p>8 information to give him a bottom bunk.</p> <p>9 Q. Even though it was identical to a previous order that</p> <p>10 you did approve?</p> <p>11 A. Correct.</p> <p>12 EXHIBIT 4, PLAINTIFF'S, MARKED FOR I.D.</p> <p>13 Q. Can you explain how this document is different from the</p> <p>14 previous exhibit, this being Exhibit 4, you may want to</p> <p>15 look at Exhibit 3 again, if you want?</p> <p>16 A. How is this different?</p> <p>17 Q. Yes.</p> <p>18 A. The notations at the bottom.</p> <p>19 Q. It is otherwise dated the same, in that it is on order</p> <p>20 from 6/9/2015, it has your same notations, indicating</p> <p>21 that you denied it on 6/19/2015, and there are</p> <p>22 additional notations; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Can you explain what the additional notations indicate?</p> <p>25 A. The patient states he should not be on the top bunk</p>

<p style="text-align: right;">Page 93</p> <p>1 because of severe neck pain that radiates into his left 2 arm. He says that climbing down and up makes pain 3 worse, and he is advised to follow up with security. 4 Signed by nurse practitioner neck Marianne Warren. 5 Q. What is the next notation? 6 A. Per Dr. Melnick on August 21, 2013, and Ken Davis, 7 OT, this patient has cervical neuropathy, and should be 8 placed on bottom bunk referred to security, Marianne 9 Warren. 10 Q. Can you tell from these notations what happened with 11 this order, or why it was submitted to you again on 12 October 28, 2015? 13 A. I am sorry? 14 Q. Do you understand what these notations are for? Or why 15 are these notations on this document, and what happened 16 with this document after these notations were added; 17 can you tell? 18 A. I can tell that Marianne Warren responded to my 19 request for more information. I can tell that on 20 10/28/2015, her notation indicates self-reported 21 information from the inmate on whether or not he can 22 climb up and down the ladder. 23 Q. How would that information have been significant to 24 you? 25 A. Because he could be on the top bunk.</p>	<p style="text-align: right;">Page 95</p> <p>1 think that it meant that he could not climb a ladder -- 2 I am sorry. There were a lot of nots in there. 3 MS. DAVIS: Let me rephrase. 4 Q. When you read this, this bottom -- I am sorry, this 5 first, top notation, that did not indicate to you that 6 he needed a bottom bunk? 7 A. It didn't indicate that he could climb a ladder, 8 yes. 9 Q. And this, the second one when it was submitted to you 10 from a medical professional, did you think that he 11 needed a bottom bunk? 12 A. All right. This order is signed by me on 6/19, and 13 these notations are in October. 14 Q. Yes. 15 A. I don't have another signature after these. 16 Q. Right. But you just a minute ago testified that after 17 reading this, this would not indicate to you that he 18 needed a bottom bunk? 19 A. The top piece. 20 Q. And what did you, or would you think after reading the 21 bottom piece? 22 A. If I had a medical doctor tell me that he needed a 23 bottom bunk, then I would order that bottom bunk. 24 Q. Okay. Any indication on this that you did approve the 25 order?</p>
<p style="text-align: right;">Page 94</p> <p>1 Q. You would have interpreted that as saying that he did 2 not need a bottom bunk; is that what you are saying? 3 A. I am saying in this top notation, it's 4 self-reported, that he has issues climbing up to a top 5 bunk. 6 Q. So, after reading that top notation, you would have 7 decided that it was not a legitimate reason for a 8 bottom bunk; is that what you are saying? 9 A. What I am saying is if he could climb up a ladder, 10 I don't believe he had a legitimate request for a 11 bottom bunk. 12 Q. Even if it was causing him pain? 13 A. Self-reported. 14 Q. So you don't believe him; is that what you are saying? 15 A. I am saying it is self-reported. I want more 16 documentation to tell me he actually could not climb. 17 The notation from Dr. Melnick gives a medical 18 condition. It still does not tell me that he cannot 19 climb a ladder. 20 Q. Why would whether or not he could climb a ladder affect 21 whether or not you would grant this order? 22 A. Because he could sleep on a top bunk. 23 Q. So you would not approve this order that was submitted 24 by a medical professional and as a request to you to 25 grant this inmate a bottom bunk because you did not</p>	<p style="text-align: right;">Page 96</p> <p>1 A. On this? 2 Q. Yes? 3 A. No. 4 Q. Is there any indication on this document that you saw 5 these additional notations? 6 A. No. 7 Q. Do you know how this document would have gotten into 8 the medical record? 9 A. I don't. 10 Q. Is there any way that you know of that we could 11 determine that you saw this? 12 A. No. 13 Q. Is that because there is no electronic record of when 14 documents are submitted to you and when you review 15 them? 16 A. This is how I get them. What medical does with 17 them when I give them back is what they do with them. 18 Q. But there is no notation from you after 6/19/2015; is 19 that correct? 20 A. That's correct. 21 Q. So there is no indication on this document that you 22 ever saw these 10/28 notations; is that correct? 23 A. Yes. 24 Q. So, is that because there is no other electronic record 25 indicating whether or not you saw an order like this?</p>

<p style="text-align: right;">Page 97</p> <p>1 A. I don't know if that's why. 2 Q. Would we be able to determine if you had seen this 3 document if these documents were submitted to you 4 electronically? 5 A. They are not. 6 Q. Would it be more likely that we would be able to 7 determine if you had seen if there was an electronic 8 record of them being submitted to you? 9 A. I can't answer that because they are not. 10 Q. I am asking if it was a better procedure if they were 11 received by you electronically because it would allow 12 us to determine if you ever saw this document? 13 MR. SULLIVAN: Objection. You can 14 answer. 15 A. But I would still not be able to sign it. 16 Q. Well, for instance, if this was sent to your E-mail, 17 would we be able to determine if it was an E-mail that 18 you ever opened? 19 A. Yes. 20 Q. So there might be an electronic record demonstrating 21 that you saw the document? 22 A. There might. 23 Q. Without having your handwritten note on this, is there 24 any way that we can determine whether or not you ever 25 saw this document?</p>	<p style="text-align: right;">Page 99</p> <p>1 Q. How does that affect security concerns that you are 2 reviewing this for? 3 A. Because inmates self-report things all of the time. 4 I want more information medically that backs up their 5 claims, so I can make an educated decision based on 6 medical need, that this order should be approved. 7 Q. Do you think that the medical staff are not making that 8 determination? 9 A. The medical staff are receiving the information 10 from the offender directly, self-reported, not 11 documented. 12 Q. But do you think that the medical staff are making a 13 decision based on information that they are receiving 14 from an inmate that is sufficient to send you a 15 request? 16 MR. SULLIVAN: Objection. You can 17 answer. 18 A. They're making a request to me based on the 19 information that the inmate gave them. 20 Q. How do you know that information is not documented? 21 A. They would provide me documentation -- they would 22 provide me information that he has a legitimate issue. 23 Q. In the previous information, she indicated that he has 24 osteoarthritis in his neck; is that not a sufficient 25 documentation of a medical condition?</p>
<p style="text-align: right;">Page 98</p> <p>1 A. Not to my knowledge. 2 Q. When this first notation was put in, I know we do not 3 have a record of your response to it, but when you just 4 read it, you indicated that you would not have approved 5 it; is that correct? 6 A. Not based on the top notation. 7 Q. Does it matter that a medical professional decided to 8 send this request to you? 9 A. Does it matter how? 10 Q. In your review. 11 A. It only comes to me from medical professionals. 12 Q. But you understand that a medical professional received 13 this information from an inmate and decided to send it 14 to you; is that correct? 15 A. Yes. 16 Q. And so would that presumably mean that the medical 17 staff decided that it was important enough to send it 18 to you to be approved? 19 A. Yes. 20 Q. And in deciding, after reading that, that it is not 21 necessary to approve, are you overriding a decision by 22 a medical professional? 23 A. No. 24 Q. Why not? 25 A. Because it is self-reported.</p>	<p style="text-align: right;">Page 100</p> <p>1 A. Yes. 2 Q. It is, that is sufficient? 3 A. If he has that, yes. 4 Q. Well, that's on the same document; is it not? 5 A. Yes. 6 Q. So you have already been told that he has a medical 7 condition that has been documented, which is 8 osteoarthritis in the neck; is that correct? 9 A. Yes. 10 Q. And, yet, you are saying that this notation from the 11 nurse practitioner was still not sufficient to approve 12 a bottom bunk; is that what you are saying? 13 A. Because her notation is referring to his inability 14 to climb a ladder, self-reported. 15 Q. I am just trying to figure out how the fact that he has 16 a documented condition, the nurse has indicated it to 17 you, and that he is saying that he has pain and trouble 18 because of that documented condition, he has pain in 19 climbing up and down a ladder, and a nurse has decided 20 that that is sufficient, a sufficient reason to send 21 the request to you, why, based on your security 22 concerns, why that is not sufficient to grant a bottom 23 bunk? 24 A. Because it does not indicate medically that he 25 cannot climb a ladder. In addition, he has</p>

<p style="text-align: right;">Page 101</p> <p>1 consistently held a job as a block porter since he has 2 been there. 3 Q. What does that have to do with it? 4 A. He is a janitor. 5 Q. What does the fact that he is a janitor have to do with 6 his ability to climb a ladder? 7 A. His ability to perform the duties of a porter -- in 8 this case, it is a called a porter. So he does not 9 have a medical condition that prevents him from doing a 10 physical job. 11 Q. What does his job as a porter have to do with him 12 having to climb a ladder? 13 A. Because he climbs stairs in the mod to perform his 14 job duties. 15 Q. How is climbing stairs and climbing a ladder relevant 16 to each other, or in any way the same thing? 17 A. He can climb. 18 Q. He can climb with his legs? 19 A. Yes. He climbs up and down the stairs. 20 Q. Using his legs? 21 A. Yes. 22 Q. What do you need to use in order to climb a ladder? 23 A. Your legs and your arms. 24 Q. So do you need to use your arms in order to climb 25 stairs?</p>	<p style="text-align: right;">Page 103</p> <p>1 Q. Can you identify this document? 2 A. It's a special needs request form. 3 Q. By looking at this, what is the date of the document? 4 A. 11/12/2015. 5 Q. What is the request for? 6 A. Bottom bunk, neck pain. 7 Q. And by looking at this document, can you tell what 8 happened with it? 9 A. The special needs appeared to have been generated, 10 and that's where it stopped. 11 Q. So there is no evidence that this was ever submitted to 12 you or that you ever saw it or reviewed it or approved 13 or denied it; is that correct? 14 A. Correct. 15 Q. Because there is no electronic record of these being 16 submitted to you, there is no -- we have no ability to 17 determine if you ever saw this; is that correct? 18 A. That's correct. 19 Q. Is there a reason why a medical professional might have 20 entered it into the medical record and not giving it to 21 you? 22 A. I don't know. 23 MS. DAVIS: Exhibit 6, please. 24 EXHIBIT 6, PLAINTIFF'S, MARKED FOR I.D. 25 Q. Exhibit Number 6, can you identify this document?</p>
<p style="text-align: right;">Page 102</p> <p>1 A. If you are carrying janitorial supplies, yes. 2 Q. And, so, are you saying that it does not matter if a 3 medical professional has ordered that this inmate be 4 given a bottom bunk, all that matters is if you decide 5 that the basis for the order is legitimate; is that 6 what you are testifying to? 7 A. No. In this particular case, I didn't see this. 8 Q. But you just testified that you would not have granted 9 the order based on that information? 10 A. Based on the top notation. 11 Q. Even though you had previously approved orders for this 12 inmate based on osteoarthritis in the neck, you would 13 not have granted this order; is that what you are 14 saying? 15 A. Based on this, the top notation, no. 16 Q. And it does not matter to you that a medical 17 professional has made the determination that the inmate 18 should be given a bottom bunk; is that what you are 19 saying? 20 A. I am not saying it does not matter to me. I am 21 saying I would request more information that is 22 documented in this case that he cannot climb a ladder, 23 but again, I didn't see this. 24 MS. DAVIS: Exhibit 5, please. 25 EXHIBIT 5, PLAINTIFF'S, MARKED FOR I.D.</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Yes. 2 Q. What is it? 3 A. It is a personal needs request form. 4 Q. When is the date? 5 A. 11/20/2015. 6 Q. And as with the previous exhibit, is there any 7 indication that this was ever submitted to you or that 8 you ever saw this? 9 A. No. 10 Q. When is this requested order set to expire? 11 A. 12/12/16. 12 MS. DAVIS: Exhibit 7, please. 13 EXHIBIT 7, PLAINTIFF'S, MARKED FOR I.D. 14 Q. Exhibit 7, can you identify this document? 15 A. Yes. It is a special needs request form. 16 Q. When is it dated? 17 A. 12/21/2015. 18 Q. Is there any indication on it that you ever saw it, or 19 it was ever submitted to you? 20 A. No. 21 Q. We can assume that it was never implemented because 22 there is no indication that you ever saw it or approved 23 it or denied it; is that fair? 24 A. I never saw it. 25 MS. DAVIS: Exhibit 8, please.</p>

<p style="text-align: right;">Page 105</p> <p>1 EXHIBIT 8, PLAINTIFF'S, MARKED FOR I.D. 2 Q. This exhibit may actually change your answer on the 3 last one because the date is the same, 12/21/2015; is 4 that correct? 5 A. 12/21/2015. 6 Q. And that's the same date as the previous exhibit, 7 Exhibit 7? 8 A. Yes. 9 Q. Is there an indication on this document that you saw 10 it? 11 A. Yes. 12 Q. And what does the notation indicate to you? 13 A. Bottom bunk, neck pain. 14 Q. And what is the notation from you? 15 A. Denied. 16 Q. On what date? 17 A. 12/29/15. 18 Q. And can you explain why this was denied? 19 A. It had been denied previously. 20 Q. Is there a reason why you did not request more 21 information? 22 A. I don't recall. 23 Q. Can you think of a reason why you might not have 24 requested more information on this request? 25 MR. SULLIVAN: Objection. You can</p>	<p style="text-align: right;">Page 107</p> <p>1 I typically would pick earlier review dates. This 2 would have gone over a year, almost two years. 3 Q. If you had picked an earlier review date, how would you 4 have indicated that on the document? 5 A. I would have wrote earlier review, and I would have 6 put the date. 7 Q. And the effect of putting that on it would have meant 8 it expired on the date that you set; is that correct? 9 A. Yes. 10 MS. DAVIS: Exhibit 9, please. 11 EXHIBIT 9, PLAINTIFF'S, MARKED FOR I.D. 12 Q. Can you identify this document? 13 A. It's a special needs request. 14 Q. When is it dated? 15 A. 6/21/2016. 16 Q. By looking at this document, can you determine if you 17 ever saw it or reviewed it or approved or denied it? 18 A. No. 19 Q. Have you ever seen a request for special needs that 20 indicated multiple reasons? 21 A. In the former medical records system, yes. In the 22 current one, no. 23 Q. How come? 24 A. EMR, the electronic medical records were updated 25 from one system to another, and the old system just</p>
<p style="text-align: right;">Page 106</p> <p>1 answer. 2 A. I don't recall. 3 Q. Previously in your deposition, do you recall testifying 4 that you always request more information when you feel 5 like more information is needed? 6 A. Yes. 7 Q. And, so, based on looking at this document, does it 8 look like you denied it without requesting more 9 information? 10 A. Yes. 11 Q. And there is no other documentation or indication on 12 this document that would give us an explanation of why 13 it was denied without a request for further 14 information; is that correct? 15 A. That's correct. 16 Q. If this order had been approved, when would it have 17 expired? When does it state it would have expired? 18 A. 12/12/2016. 19 Q. Is there any reason why it would not have expired on 20 that date if it had been approved that you could think 21 of? 22 A. That's over a year, it is over a year. 23 Q. What is the significance of that? 24 A. Normally, any -- normally, I would not approve a 25 request that goes longer than a year without a review.</p>	<p style="text-align: right;">Page 108</p> <p>1 gave us a list of anything that has ever been requested 2 with a start date and expiration date. The new system 3 does not. 4 Q. When did the new system go into effect? 5 A. I don't recall. 6 Q. Was it after 6/21/2016? 7 A. I don't recall. 8 Q. Can I ask you to look very quickly back at Exhibit 7? 9 A. Yes. 10 Q. I'm sorry, Exhibit 8? 11 (WITNESS COMPLIES) 12 Q. Do you know if you ever consulted with any medical 13 professionals in regard to this order? 14 A. I don't recall. 15 MS. DAVIS: Exhibit 10, please. 16 EXHIBIT 10, PLAINTIFF'S, MARKED FOR I.D. 17 Q. Can you identify this document? 18 A. Yes. It is a special needs form. 19 Q. And when is it dated? 20 A. 6/28/2016. 21 Q. And what is the request for? 22 A. There are three separate requests. 23 Q. Can you explain what each request is for? 24 A. The top is bottom bunk, neck pain. Start date 25 11/12/14, stop date 12/12/16. Bottom bunk -- second</p>

<p style="text-align: right;">Page 109</p> <p>1 entry, bottom bunk, falls, 6/21/16, expiring 6/21/2017, 2 and the third entry, bottom bunk, falls, question mark, 3 apnea, 6/28/2016 through 9/28/2016. 4 Q. Is there any indication based on looking at this that 5 you saw this document on or after 6/28/2016, and by 6 after, I mean, recently after, or around the time of 7 6/28/2015? 8 A. No. 9 MS. DAVIS: Exhibit 11, please. 10 EXHIBIT 11, PLAINTIFF'S, MARKED FOR I.D. 11 Q. Can you identify this document? 12 A. I can. 13 Q. What did? 14 A. An administrative note. 15 Q. Is it a request for special accommodations? 16 A. Yes. 17 Q. When is it dated? 18 A. 9/8/2016. 19 Q. And does it contain the same three requests from the 20 previous exhibit that you read? 21 A. Yes. 22 Q. And what does it indicate to you on it, in the 23 handwritten notation, what does those indicate? 24 A. Approved, 9/21/16. 25 Q. And the bottom notation?</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. And reading falls and apnea was a legitimate enough 2 reason to you that you did not feel the need to request 3 more information; is that a fair reading of this? 4 A. Yes. 5 Q. The fact that you circled that third notation, does 6 that mean that it was set to expire on September 28, 7 2016? 8 A. Yes. 9 Q. So it would not have been implemented past that date; 10 is that correct? 11 A. I can only assume it would not have been 12 implemented past that date. It was generated on 13 9/8/2016, and it was set to expire on 9/28/2016 based 14 on this documentation. 15 Q. Is there a reason why you would have only approved the 16 third order? 17 A. Like I said, they come to me. I usually will 18 approve the last one, because sometimes I have them 19 listed from years before. 20 Q. So you would not even consider looking or granting a 21 previous order that was not the most recent order? 22 A. I am saying I circled the bottom one, and that's 23 the one I approved. 24 Q. So you approved this order, and it would only last for 25 one week; is that fair to say?</p>
<p style="text-align: right;">Page 110</p> <p>1 A. What bottom notation? That's a signature from the 2 nurse practitioner? 3 Q. When is it dated? 4 A. 9/19/2016. 5 Q. Or potentially 9/14? 6 A. In my opinion, it could be either one. 7 Q. It is a little ambiguous whether it was submitted to 8 you on 9/14/16 or 9/19/2016, but at some point between 9 then and 9/21/2016, you saw it; is that correct? 10 A. Yes. 11 Q. Do you see the other handwritten notation, the circle? 12 A. Yes. 13 Q. The circle, bottom bunk, can you explain to me what 14 that indicates? 15 A. That's -- I circled that, saying that was the order 16 I was approving. 17 Q. What is the significance of circling that order? 18 A. As I mentioned before, some of these orders come 19 through with multiple requests on them. This is the 20 most recent because it is the last one entered, so 21 that's why I would circle it. 22 Q. Is there reason based on looking at this why you 23 approved this request? 24 A. I approved it based on the information that was 25 there, falls and apnea.</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Yes. 2 Q. Would it have been possible for you to approve one of 3 the other orders and allow the order to last longer? 4 A. I signed this one based on circling the bottom one. 5 Q. But could you have circled one of the others? 6 A. Yes. I could have. 7 Q. And if you had circled one of the others, would that 8 have meant it would have expired later? 9 A. Yes. 10 Q. So, can we assume that you knowingly chose the last 11 one, knowing that it was set to expire in one week? 12 A. I chose the last one because it was the last one in 13 line. 14 Q. And, to your knowledge, on this date, did Mr. Melise 15 still have his job as a porter? 16 A. I don't recall. He has been a porter since he has 17 been there, as far as I can recall. 18 Q. So do you know if that was a factor that you considered 19 when you reviewed this request? 20 A. I don't know. 21 Q. But you did approve it? 22 A. Yes. 23 Q. So, if he did have that job at that time, that did not 24 prevent you from approving it; is that fair to say? 25 A. That's fair to say.</p>

<p style="text-align: right;">Page 113</p> <p>1 Q. Is there a reason that you can think of that this order 2 did not get to you until at the earliest 9/14, but 3 maybe 9/19? 4 A. I don't know. 5 Q. Is it unusual for you to see orders that are dated two 6 weeks prior to you seeing them? 7 A. In this case, yes. 8 Q. It is unusual? 9 A. Oh, is it unusual? 10 Q. Yes. 11 A. I don't know. 12 Q. Would you, do you recall if you noted the fact that the 13 start date for this order was 6/28/2016? 14 A. I don't remember. 15 Q. Would you have found that unusual if you had noticed 16 it? 17 A. No. 18 Q. Why not? 19 A. Because sometimes medical just generates these at 20 random. 21 Q. So the fact that this order was originally put in the 22 system on 6/28/2016 but was printed or generated on 23 9/08/2015 would not appear unusual to you? 24 A. No. 25 Q. I am sorry, but can you go back, and look at Exhibit 1</p>	<p style="text-align: right;">Page 115</p> <p>1 A. It is an inmate event screen printout. 2 Q. And what type of events does it list? 3 A. It lists transfers, like when an inmate went to 4 court, where they are living, the dates and times. 5 Q. So, if you could, could you refer back to Exhibit 1, 6 this order was approved on what date? 7 A. 11/19/14. 8 Q. And it was set to expire on February 12, 2015; is that 9 correct? 10 A. Yes. 11 Q. Can you tell me, based on this document, if the inmate 12 was assigned to a bottom bunk between those dates? 13 A. He was on a bottom bunk on 11/11 -- wait a minute. 14 Q. Let me try to make this a little bit easier. On 11/19, 15 was he assigned to a top or bottom bunk? 16 A. He was assigned to a bottom bunk on 11/3, or he was 17 living in a bottom bunk on 11/3. 18 Q. What is the next entry, where he was transferred on the 19 next line? 20 A. On 12/9/2014, he is transferred from C mod, right 21 one bottom, to B mod left 19 top. 22 Q. Was this inmate at any point a participant in the sex 23 offender treatment program? 24 A. He was interviewed by the clinician for the sex 25 offender treatment program, and it was determined that</p>
<p style="text-align: right;">Page 114</p> <p>1 one more time? 2 (WITNESS COMPLIES) 3 Q. I know you said that you approved the third one on 4 Exhibit 1, and I think you said you would be capable of 5 approving one of the other orders, are you permitted to 6 determine which medical reason an order is granted or 7 approved? 8 A. I don't understand what you are asking me. 9 Q. Based on the policy or based on the, you know, 10 obligations of being the ADA coordinator, the facility 11 ADA coordinator, were you permitted to choose which 12 medical reason you were granting an order for? 13 A. I am the signoff person for the warden, so I get 14 these slips, and it is delegated to me to sign off. 15 Q. Well, the policy specifically identifies you as the 16 facility ADA coordinator; is that correct? 17 A. Correct, because I am the signoff for the warden, 18 correct. 19 Q. So they go to you, and does the policy allow you to 20 choose which medical reason you are granting an order 21 for? 22 A. I don't know. 23 MS. DAVIS: Exhibit 12, please. 24 EXHIBIT 12, PLAINTIFF'S, MARKED FOR I.D. 25 Q. Can you identify this document?</p>	<p style="text-align: right;">Page 116</p> <p>1 he needed to be in it. 2 Q. So he was? 3 A. It was determined that he needed to be in there; he 4 refused. 5 Q. So he was not assigned to the F block during this time? 6 A. No. 7 Q. Because he was not a participant in that? 8 A. He refused, yes. 9 Q. So he was, based on looking at this, he was assigned to 10 a bottom bunk for the period 11/19/2014 to 2/12/2015; 11 is that correct? 12 A. What were the dates you gave me? 13 Q. The date that this order was in effect, 11/19/2014 to 14 2/12/2015, besides the random transfer on 12/09, he 15 was, otherwise, assigned to a bottom bunk; is that 16 correct. 17 A. 12/9/2014 he was on a top bunk in B left, and then 18 he was moved to C right into a bottom bunk, bottom. 19 Q. When is the next time he was assigned to a top bunk? 20 A. 9/20/2015. 21 Q. What bunk was he assigned to on November 30, 2015? 22 A. B left, 1 top. 23 Q. So he was assigned to a top bunk on that date? 24 A. He was assigned to that on 10/18/2015. 25 Q. Right. So on the date of November 30th, he was in a</p>

<p style="text-align: right;">Page 117</p> <p>1 top bunk, is that correct, from reading this?</p> <p>2 A. Yes.</p> <p>3 Q. So, on that date, when he reported to a nurse that he</p> <p>4 fell out of the top bunk and injured himself, is that</p> <p>5 because he was, in fact, assigned to a top bunk? Is</p> <p>6 that correct?</p> <p>7 A. Yes.</p> <p>8 Q. When is the next time that he was assigned to a bottom</p> <p>9 bunk following that?</p> <p>10 A. 8/12/2016 -- no, 7/7/2016.</p> <p>11 Q. So, it is fair to say that on June 21, 2016, when he</p> <p>12 reported to medical professionals that he fell out of</p> <p>13 his bed from the top bunk and was injured, that he was,</p> <p>14 in fact, assigned to a top bunk on June 21, 2016?</p> <p>15 A. Can you ask that question again?</p> <p>16 Q. On June 21, 2016, was he assigned to a top bunk?</p> <p>17 A. Yes.</p> <p>18 Q. So, this document corroborates this statement to</p> <p>19 medical that he fell off the top bunk because he was,</p> <p>20 in fact, assigned to a top bunk on that date?</p> <p>21 MR. SULLIVAN: Objection.</p> <p>22 A. It corroborates that he was on a top bunk.</p> <p>23 Q. When is the next time that he was moved to a bottom</p> <p>24 bunk?</p> <p>25 A. After which date?</p>	<p style="text-align: right;">Page 119</p> <p>1 A. That's something I would have to ask the housing</p> <p>2 lieutenant.</p> <p>3 Q. But based on your prior testimony when you approved</p> <p>4 this, you would have sent it back to medical?</p> <p>5 A. Yes.</p> <p>6 Q. And assumed that it would have gotten implemented</p> <p>7 through the process; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. So you would not at any point talk to correctional</p> <p>10 staff to ensure that this was implemented; is that</p> <p>11 correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And it appears that it was not implemented; is that</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 MS. DAVIS: Exhibit 13, please.</p> <p>17 EXHIBIT 13, PLAINTIFF'S, MARKED FOR I.D.</p> <p>18 Q. Can you identify this document?</p> <p>19 A. It is an incident report.</p> <p>20 Q. When is it dated?</p> <p>21 A. 11/11/2016.</p> <p>22 Q. And can you tell me what the incident report is</p> <p>23 describing?</p> <p>24 A. Inmate fell out of top bunk while sleeping. Inmate</p> <p>25 complained of an injured ankle. Nurse responded, and</p>
<p style="text-align: right;">Page 118</p> <p>1 Q. After June 21, 2016.</p> <p>2 A. July 7, 2016.</p> <p>3 Q. And how long did he have a bottom bunk?</p> <p>4 A. Until 8/12/2016.</p> <p>5 Q. Was he moved to a top bunk on that date?</p> <p>6 A. Yes.</p> <p>7 Q. And was he assigned to a top bunk until November 11,</p> <p>8 2016?</p> <p>9 A. Yes.</p> <p>10 Q. So can you, please, refer to back to Exhibit 11?</p> <p>11 (WITNESS COMPLIES)</p> <p>12 Q. And this is an order that you approved?</p> <p>13 A. Yes.</p> <p>14 Q. What was the date that you approved this order?</p> <p>15 A. 9/21/2016.</p> <p>16 Q. So, based on Exhibit 12, was he given a bottom bunk</p> <p>17 after you approved an order for giving him a bottom</p> <p>18 bunk on 9/21/2016?</p> <p>19 A. No.</p> <p>20 Q. Do you know why he was not given a bottom bunk after he</p> <p>21 was approved for receiving a bottom bunk accommodation?</p> <p>22 A. I don't.</p> <p>23 Q. Is there any reason you can think of why he was not</p> <p>24 given a bottom bunk?</p> <p>25 MR. SULLIVAN: Objection.</p>	<p style="text-align: right;">Page 120</p> <p>1 inmate was sent to Rhode Island Hospital ER via DOC van</p> <p>2 for x-rays.</p> <p>3 Q. Did you receive this incident report?</p> <p>4 A. It would have come to all of us as administrators.</p> <p>5 Q. The following day primarily, or when would it have come</p> <p>6 to you?</p> <p>7 A. It would have come to me probably the following</p> <p>8 day.</p> <p>9 Q. Would it have come to you with any other documents?</p> <p>10 A. No, not that I can recall.</p> <p>11 Q. It would not be part of a packet of documents that you</p> <p>12 would receive?</p> <p>13 A. Based on this incident?</p> <p>14 Q. Yes.</p> <p>15 A. I would get an incident report sent to me through</p> <p>16 by the lieutenant, and in this case, it was generated</p> <p>17 to the warden -- I am sorry, to the deputy that I am</p> <p>18 now.</p> <p>19 Q. It was generated to the operational deputy warden?</p> <p>20 A. Correct.</p> <p>21 Q. At the time?</p> <p>22 A. Yes.</p> <p>23 Q. Would you have taken any action, or did you take any</p> <p>24 action after receiving this incident report?</p> <p>25 A. Not that I can recall.</p>

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1 Q. Who was the shift commander on November 11, 2016?
2 A. Lieutenant Flynn.
3 Q. Can you tell me what is indicated at the bottom of this
4 document, just the last notation on this document,
5 starting with shift commander's comments; what does
6 that say?
7 A. It's Stephen Melise's ID, and his name, security
8 and his area and bunk assignment.
9 Q. If Patrick Flynn was the shift commander on this date,
10 why are there additional shift commander comments on
11 the incident report?
12 A. I don't understand what you are asking me. He
13 would have written this.
14 Q. So this is a normal incident report?
15 A. That's a normal incident report.
16 Q. Wherein at the bottom it contains shift commander's
17 comments, even though the document is filled out by the
18 shift commander?
19 A. It is basically giving you the demographics of the
20 inmate himself and where he was living at the time.
21 Q. So this notation would not have been added by somebody
22 else; it would have been added by the person who filled
23 out the form?
24 A. On that particular shift, there is only one shift
25 commander, yes.

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1 Q. And does the information in this incident report appear
2 accurate as to what you would expect would be in an
3 incident report?
4 A. It gives me a description of what happened.
5 Q. And would you, or is there a reason why these boxes are
6 not checked off, and some of these fields appear not to
7 be filled in?
8 A. That would be a request for Lieutenant Flynn.
9 Q. Is that normal, that they would all be filled out?
10 A. It depends on the incident.
11 Q. Based on this incident, was outside medical attention
12 necessary?
13 A. Yes.
14 Q. So that check box should have been filled out; is that
15 correct?
16 A. It could have been checked off, yes. He wrote it
17 in his incident report.
18 Q. Who reviews incident reports once they are filled out;
19 does anybody? Are they submitted to a superior?
20 A. They are submitted to the administration, the
21 warden, the warden and the deputies, and deputy of
22 operations, in particular.
23 Q. Would anybody review this to determine if it was, if
24 there was sufficient information or not? Would anybody
25 look at this and decide that it was insufficient and

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1 ask for some information?
2 A. In some cases.
3 Q. Who would that be that would make that decision?
4 A. Given the particular document, it would have been
5 Deputy Diniz.
6 Q. If it also came to you, would you, might you have
7 requested additional information after reading this
8 incident report, even though it was not addressed to
9 you, could you have asked for more information?
10 A. I could have.
11 Q. Does that happen often, that you would see an incident
12 report and decide that you needed more information?
13 A. On certain incidents, yes.
14 Q. Do you recall reviewing this incident report?
15 A. I don't.
16 Q. Is the information in this incident report correct, as
17 far as you can tell?
18 MR. SULLIVAN: Objection.
19 A. I don't understand what you mean by correct.
20 Q. Does it look inaccurate for any reason? Would you
21 assume the information in this document is correct?
22 A. Yes.
23 Q. Do you know if a code white was called in relation to
24 this incident?
25 A. I don't.

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1 Q. Is there any way to determine if a code white was
2 called in regard to this incident?
3 A. Not based on this report.
4 Q. But based on other documents? Are there other
5 documents that might indicate that a code white was
6 called?
7 A. It would be logged in the shift's commanders daily
8 blotter. It would be logged in the block itself, in
9 the housing unit itself, in the log book.
10 Q. The log book specific to the mod?
11 A. Yes.
12 Q. Would it be recorded anywhere else?
13 A. It would also then be recorded in the daily
14 packets.
15 Q. What are the daily packets?
16 A. It is a daily packet of events that occurred during
17 the 24-hour shift.
18 Q. Who receives the daily packets?
19 A. The operations deputy.
20 Q. So you would not have received the daily packet
21 following this incident; is that correct?
22 A. Correct.
23 Q. Deputy Warden Diniz would?
24 A. Yes.
25 Q. And in that packet, it would contain information as to

<p style="text-align: right;">Page 125</p> <p>1 whether or not a code white was called?</p> <p>2 A. Yes.</p> <p>3 Q. Would it also indicate who was on staff that night?</p> <p>4 A. Yes, the roll calls.</p> <p>5 Q. Would it indicate who responded to the code white, if</p> <p>6 one was called?</p> <p>7 A. The shift commander.</p> <p>8 Q. Any other staff, would any other staff report?</p> <p>9 A. The only other staff in the area would be the</p> <p>10 officer in the main control center in the mod.</p> <p>11 Q. Would there only be one other correctional staff on</p> <p>12 that night?</p> <p>13 A. In that block, yes.</p> <p>14 Q. In that block. Do you know if there was any video</p> <p>15 footage of the plaintiff's incident on November 11,</p> <p>16 2016?</p> <p>17 A. There would not be footage of anything that</p> <p>18 happened inside of a cell room.</p> <p>19 Q. Would there be footage from outside of the cell?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know if that footage was retained, or?</p> <p>22 A. I don't.</p> <p>23 Q. Would there have been video footage of the plaintiff</p> <p>24 being transported to the van that took him to Rhode</p> <p>25 Island Hospital?</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. And the next line?</p> <p>2 A. 1:17 A.M., nurse arrived; 12:22, nurse -- I don't</p> <p>3 know what that name is.</p> <p>4 Q. Is it possible that nurse leaves?</p> <p>5 A. That's a guess. I am not sure, to be honest with</p> <p>6 you.</p> <p>7 Q. What does it say next?</p> <p>8 A. Inmate still in day room with four utility</p> <p>9 officers. I am sorry -- 1:30 -- I am having -- I can't</p> <p>10 make out what that says.</p> <p>11 Q. Me neither.</p> <p>12 A. And 1:58 nurse, I don't know what that next word</p> <p>13 is, inmate Melise, B, right, 9 top -- I don't know what</p> <p>14 the last word is.</p> <p>15 Q. Is there anyone that might be able to decipher this?</p> <p>16 Do you know who wrote it?</p> <p>17 A. The officer who wrote it.</p> <p>18 Q. Do you know who wrote it?</p> <p>19 A. I don't.</p> <p>20 Q. At the very top, it says 11-7 shift, 11/16 Friday; do</p> <p>21 you see what it says after Friday?</p> <p>22 A. I am not sure where you are.</p> <p>23 MR. SULLIVAN: Second page.</p> <p>24 A. CO -- it looks like Corvese. That's a guess.</p> <p>25 Q. Do you know if such a person exists, if there is an</p>
<p style="text-align: right;">Page 126</p> <p>1 A. Yes.</p> <p>2 Q. Do you know if any of that footage was retained?</p> <p>3 A. I do not.</p> <p>4 Q. Would there have been footage of when he returned from</p> <p>5 Rhode Island Hospital?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know if any of that footage was retained?</p> <p>8 A. I do not.</p> <p>9 EXHIBIT 14, PLAINTIFF'S, MARKED FOR I.D.</p> <p>10 Q. Is this the log book specific to B mod that just</p> <p>11 referred to as?</p> <p>12 A. Yes.</p> <p>13 Q. Can you read to me everything that is written on this</p> <p>14 document?</p> <p>15 A. I'll do my best.</p> <p>16 Q. Thank you. That's what I am asking?</p> <p>17 A. "12:41, B right, 9, top, apparently fell off his</p> <p>18 bunk. Lieutenant Flynn notified, nurse called." Then</p> <p>19 there is a signature in the log book by Lieutenant</p> <p>20 Flynn.</p> <p>21 Q. Are you referring to the initials?</p> <p>22 A. This right here (indicating).</p> <p>23 Q. So the next line down, there is a scribble that is a</p> <p>24 signature?</p> <p>25 A. Lieutenant Flynn's.</p>	<p style="text-align: right;">Page 128</p> <p>1 Officer Corvese?</p> <p>2 A. I don't.</p> <p>3 Q. But, presumably, that officer whose name is on the top</p> <p>4 might be able to decipher this document?</p> <p>5 A. If it is his handwriting.</p> <p>6 Q. Can you look at the next page, and can you read who</p> <p>7 that officer is at the top?</p> <p>8 A. Yes, "CO J. Machado."</p> <p>9 Q. What does it say there in the middle of the page?</p> <p>10 A. "9-20, Inmate Melise to A left, 6 bottom, from B</p> <p>11 right, 9 top, reason broke foot last night from fall."</p> <p>12 Q. Do you know whose signature that is at the bottom</p> <p>13 underneath that?</p> <p>14 A. It is a lieutenant.</p> <p>15 Q. Somebody?</p> <p>16 A. (Witness nods)</p> <p>17 Q. Are there documents that would help us decipher who</p> <p>18 might have signed that; as in, are there other</p> <p>19 documents that would indicate who was on staff that</p> <p>20 day?</p> <p>21 A. It would be the roll calls.</p> <p>22 Q. Can you quickly refer back to Exhibit 13?</p> <p>23 (WITNESS COMPLIES)</p> <p>24 Q. And compare that to the second page of Exhibit 14, at</p> <p>25 the top, see where it says date and time of incident,</p>

<p style="text-align: right;">Page 129</p> <p>1 11/11/2016, 1:19:42 A.M.; is that what that says on top 2 of the incident report? 3 A. Yes. 4 Q. And can you tell me what the time of the incident is 5 reported in the log book? 6 A. It does not have the time next to Lieutenant 7 Flynn's -- in front of the notation that Lieutenant 8 Flynn was notified and the nurse was called. 9 Q. But the line right above that, does it say 12:41 A.M.? 10 A. Yes. 11 Q. Apparently fell off his bunk? 12 A. Yes. 13 Q. So does that appear to indicate that the time of the 14 incident was 12:41 A.M.? 15 A. It could be that's when the inmate told him that he 16 fell off the bunk. I am not sure what you are asking 17 me. That's what it says 12:41. 18 Q. So, it is fair to assume that the plaintiff fell out of 19 his bed somewhere close to 12:41 A.M.? 20 A. According to this notation, yes. 21 Q. And is that different from what is listed in the 22 incident report? 23 A. Yes. This is the time that Lieutenant Flynn 24 generated the report. 25 Q. Does it not indicate at the top that that's the date</p>	<p style="text-align: right;">Page 131</p> <p>1 out of his bed at approximately 12:45 A.M., and a nurse 2 arrived at approximately 1:12; is that accurate? 3 A. Yes. 4 Q. So, it took approximately 31 minutes for a nurse to 5 arrive; is that accurate? 6 A. Yes. 7 Q. Do you think that that's normal? 8 A. It depends on what else was going on at the intake 9 center with the nurse. 10 Q. Is there any way to determine what was going on at the 11 intake with the nurse? 12 A. That would be in a log book at the intake center. 13 Q. Can you explain to me what the day room is? 14 A. The day room is, it is just a day room. When 15 inmates come out of their cells, they are in their day 16 room, a recreation room in the middle of the mod. 17 There are tables, showers, phones. 18 Q. Is it immediately outside of the cell, or are there 19 hallways between cells, and then they open up into the 20 day room -- I am just trying to get an idea of how it 21 is laid out? 22 A. No. It is immediately outside of the cell doors. 23 Q. So would the cells be lined up around the day room? 24 A. Yes. 25 Q. And they would all open up into the day room?</p>
<p style="text-align: right;">Page 130</p> <p>1 and time of the incident? 2 A. Yes. 3 Q. So it appears that the date and time listed in the 4 incident report for the incident is about 40 minutes of 5 from the time indicated in the log book; is that 6 accurate? 7 A. That's what it appears, yes. 8 Q. Do you know why there would have been a significant 9 discrepancy? 10 A. I don't. 11 Q. Do you know where Lieutenant Flynn would have gotten 12 the information about the date and time of the 13 incident? 14 A. I don't. 15 Q. It appears that did he did not refer to the log book in 16 order to determine the date and time of the incident; 17 is that fair to say? 18 A. I am not going to answer for Lieutenant Flynn. 19 Q. But it is not the same as what is in the log book? 20 A. Correct. 21 Q. It is normal for the date and time in an incident 22 report to be so different than what is indicated in the 23 log books? 24 A. Not in my experience. 25 Q. Based on the log book, it appears that the inmate fell</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Yes. 2 Q. So this indicates that the inmate was sitting in the 3 day room from at least 1:12 to -- I am not sure, to 4 possibly 1:58; does that make sense? 5 A. I can't make out what that notation is at 1:58. 6 Q. On the incident report where does it indicate that the 7 incident location was? 8 A. B mod, right, day room. 9 Q. Does that make any sense to you? 10 A. He would have came out -- once he acknowledged that 11 he had fallen, he would come out into the day room. 12 That's where he would wait for medical. 13 Q. But the incident, as it was reported, would have 14 occurred in his cell next to his bunk? 15 A. And it says that in the report, yes. 16 Q. So why would the incident location then be listed as 17 the day room? 18 MR. SULLIVAN: Objection. 19 A. That's a question for Lieutenant Flynn. 20 Q. If it took between 12:41 and 1:58 for the plaintiff to 21 be removed from the B mod, does that appear to you to 22 be a reasonable amount of time to receive treatment for 23 his injuries? 24 MR. SULLIVAN: Objection. 25 MS. STOWELL: Objection.</p>

<p style="text-align: right;">Page 133</p> <p>1 MS. DAVIS: You can still answer. 2 A. That depends on -- I have no control. I can't 3 answer that, that's for the nursing staff. 4 Q. Do you have any knowledge about why it took an 5 hour-and-a-half for the plaintiff to leave the B mod? 6 A. No. 7 MS. DAVIS: Exhibit 15, please. 8 EXHIBIT 15, PLAINTIFF'S, MARKED FOR I.D. 9 Q. Can you tell me what this document is? 10 A. It is a document generated by Lifespan. 11 Q. Does this appear to be the Rhode Island Hospital 12 records of when Mr. Melise's reported after his injury 13 on 11/11/2016? 14 A. That's what it appears to be, yes. 15 Q. Do you see where it says the arrival date and time? 16 A. Yes. 17 Q. What time does it say? 18 A. 11/11/2016, 2:48. 19 Q. Presumably that's A.M.; correct? 20 A. Presumably. 21 Q. Does it appear that it took over two hours for Mr. 22 Melise to be taken to a hospital after his injuries, is 23 that safe to assume from this document? 24 MR. SULLIVAN: Objection. 25 A. From what I see here, yes. He arrived at 2:48 at</p>	<p style="text-align: right;">Page 135</p> <p>1 medical staff. 2 MS. DAVIS: Exhibit 16, please. 3 EXHIBIT 16, PLAINTIFF'S, MARKED FOR I.D. 4 Q. Please look at this document? 5 A. Yes. 6 Q. What is it? 7 A. An administrative note. 8 Q. What date was it on? 9 A. 11/11/16. 10 Q. And what was it for? 11 A. It was for a bottom bunk, fall from sleep problems, 12 bottom tier, crutches for broken ankle. 13 Q. Did you approve it? 14 A. Yes. 15 Q. On what date? 16 A. 11/17/16. 17 Q. Do you know why it took a week to approve this? 18 A. I don't. 19 Q. Is there any indication of when you first saw it? 20 A. On or around 11/17/16. 21 Q. Do you know that for sure, or is that an assumption 22 based on when you signed it? 23 A. Based on when I signed it. 24 Q. So you cannot tell from this document when it was sent 25 to you, we just know it was sometime between 11/11 and</p>
<p style="text-align: right;">Page 134</p> <p>1 the top. 2 Q. And the log book indicates that he fell around 12:41? 3 A. Yes. 4 Q. So it took over two hours for him to get to a hospital 5 after his injury; correct? 6 A. Yes. 7 Q. Based on this document? 8 A. Yes. 9 Q. Between 12:41 and 2:48, do you know if Mr. Melise 10 received any sort of medical treatment? 11 A. I don't. 12 Q. Is there any indication in the log book of receiving 13 any sort of treatment? 14 A. I don't believe so, no. 15 Q. So, during that time, he had a broken leg, and he was 16 not given ice or any other medical treatment, is this 17 safe to assume? 18 A. He didn't have a broken leg. 19 Q. I am sorry? 20 A. He had a broken ankle. 21 Q. I am sorry. A broken ankle -- a broken fibula, I 22 believe. But there is no indication in the log book 23 saying that he received any sort of treatment between 24 12:41 and 2:48? 25 A. Right. That treatment would have been provided by</p>	<p style="text-align: right;">Page 136</p> <p>1 11/17? 2 A. Yes. 3 Q. What are the other notations on this document? 4 A. When broken ankle is healed, bottom bunk expires as 5 well. 6 Q. Why did you write that note? 7 A. I can't recall at the time. 8 Q. What is the other notation on this document, the other 9 handwritten notation? 10 A. 3/10/17. 11 Q. What does that indicate? 12 A. Well, the stop date is crossed out, so I am 13 assuming that's the new stop date, or a date that it is 14 going to be reviewed. 15 Q. So this indicates that you changed the expiration date 16 on the order to 3/10/2017; is that correct? 17 A. Yes. I changed time of review. 18 Q. Well, you changed the expiration date because it would 19 expire on that date; is that correct? 20 A. I changed it, based on when the broken ankle is 21 healed, the bottom bunk expires. 22 Q. But in making that notation, you changed the expiration 23 date of the order; is that correct? 24 A. Yes. 25 Q. And is there any reason why you would have only granted</p>

<p style="text-align: right;">Page 137</p> <p>1 this for the broken ankle?</p> <p>2 A. I don't recall.</p> <p>3 Q. The fact that it is listed as one of the reasons as</p> <p>4 falls from sleep problem, what would that have</p> <p>5 indicated to you?</p> <p>6 A. The way it appears to me is that I wanted both of</p> <p>7 these issues reviewed on the same date.</p> <p>8 Q. Why?</p> <p>9 A. I don't know.</p> <p>10 Q. Is it safe to say at this point you had -- or previous</p> <p>11 to this point, you had been given notification that</p> <p>12 this inmate had sleep problems and did fall out of his</p> <p>13 bed because of sleep problems; is that fair?</p> <p>14 MR. SULLIVAN: Objection.</p> <p>15 A. No.</p> <p>16 Q. Can you look at Exhibit 11, please. What was the</p> <p>17 reason for granting this order?</p> <p>18 A. Falls.</p> <p>19 Q. And?</p> <p>20 A. There is a question mark of sleep apnea.</p> <p>21 Q. Is it fair to say that as of, at least as of 9/08/2016,</p> <p>22 you were on notice that this inmate had experienced</p> <p>23 falls and had some sleep issues; is that fair to say?</p> <p>24 A. It is fair to say that it was reported that the</p> <p>25 inmate falls, and that there is question of sleep apnea</p>	<p style="text-align: right;">Page 139</p> <p>1 A. Yes.</p> <p>2 Q. I understand. As you had discussed, the reason there</p> <p>3 were multiple orders listed on this order is just</p> <p>4 because that's the way the system functioned?</p> <p>5 A. That's how it is generated.</p> <p>6 MS. DAVIS: Exhibit 18, please.</p> <p>7 EXHIBIT 18, PLAINTIFF'S, MARKED FOR I.D.</p> <p>8 Q. Can you identify this document?</p> <p>9 A. It is an administrative note dated 6/7/2017.</p> <p>10 Q. Is that a request for a reasonable accommodation for a</p> <p>11 bottom bunk?</p> <p>12 A. Yes.</p> <p>13 Q. Who approved this?</p> <p>14 A. Deputy Diniz.</p> <p>15 Q. Why did it go to Deputy Diniz instead of you?</p> <p>16 A. I was likely out.</p> <p>17 Q. So, at that point, you had been -- I am not sure, but</p> <p>18 you had referred to being promoted, had you changed</p> <p>19 jobs to being the operational deputy warden?</p> <p>20 A. The dates? I may not have moved yet. I just may</p> <p>21 not have been here. As I mentioned earlier, as my peer</p> <p>22 deputy, we would pick up the slack when the other one</p> <p>23 was not around, so this was signed by the then</p> <p>24 operations deputy.</p> <p>25 Q. Does it indicate any sort of request for additional</p>
<p style="text-align: right;">Page 138</p> <p>1 on here.</p> <p>2 MS. DAVIS: Exhibit 17, please.</p> <p>3 EXHIBIT 17, PLAINTIFF'S, MARKED FOR I.D.</p> <p>4 Q. Can you identify this document?</p> <p>5 A. It is an administrative note.</p> <p>6 Q. A request for reasonable accommodations; is that</p> <p>7 correct?</p> <p>8 A. Yes, special needs.</p> <p>9 Q. When did dated?</p> <p>10 A. 12/13/2016.</p> <p>11 Q. And did you approve it?</p> <p>12 A. I approved the CPAP machine.</p> <p>13 Q. When was it set to expire?</p> <p>14 A. 6/13/2017.</p> <p>15 Q. Do you know why the CPAP was circled?</p> <p>16 A. I circled it.</p> <p>17 Q. Do you know why?</p> <p>18 A. Because that's the order I was approving.</p> <p>19 Q. Do you know why that was the order you were approving;</p> <p>20 do you know why that was the order you were approving,</p> <p>21 among the three orders?</p> <p>22 A. I was approving a CPAP machine for sleep apnea.</p> <p>23 Q. Okay. So was not an order for a bottom bunk, it was an</p> <p>24 order just for the CPAP machine; that's what you were</p> <p>25 approving?</p>	<p style="text-align: right;">Page 140</p> <p>1 information, or does it appear that it was approved</p> <p>2 automatically?</p> <p>3 A. He circled bottom bunk, and he approved it.</p> <p>4 MS. DAVIS: I promise, we are very close</p> <p>5 to being done. Do you all want to take a quick break?</p> <p>6 (OFF-THE-RECORD DISCUSSION)</p> <p>7 MS. DAVIS: Exhibit 19, please.</p> <p>8 EXHIBIT 19, PLAINTIFF'S, MARKED FOR I.D.</p> <p>9 Q. What is this document?</p> <p>10 A. It is a policy on inmates and visitors and special</p> <p>11 needs.</p> <p>12 Q. Do you recall reviewing this policy?</p> <p>13 A. I don't recall reviewing this policy. I have at</p> <p>14 one point reviewed all policies pertaining to my job.</p> <p>15 Q. But do you recall that at some point you did have to</p> <p>16 review this policy specifically?</p> <p>17 A. Yes.</p> <p>18 Q. Can you look at Section II A., and read that for me,</p> <p>19 please -- it is right there (indicating) at the bottom?</p> <p>20 A. "The RIDOC ensures that existing programs are</p> <p>21 readily accessible to and usable by inmates with</p> <p>22 special needs unless such accommodation would</p> <p>23 materially impair the safe and efficient operations of</p> <p>24 the program, present a safety hazard to the staff or</p> <p>25 the individual inmate, threaten the security of the</p>

<p style="text-align: right;">Page 141</p> <p>1 correctional institution/facility, or would otherwise 2 cause extreme hardship in the operation of the 3 institution/facility." 4 Q. Can you please look at Section III D.2 -- I am sorry. 5 Can you look at Section III C2? Just to confirm what 6 it says, that "The deputy warden in each facility is 7 designated as the facility ADA coordinator" -- as we 8 discussed, is that correct? It is Page 3. 9 A. Yes. Oh, yes. Did you want me to read that? 10 Q. No. I just wanted you to take a look at it to confirm 11 that this policy is what designates the deputy warden 12 as the facility ADA coordinator; is that correct? 13 A. That's correct. 14 Q. Can you look at D2b., which is on Page 4. 15 (WITNESS COMPLIES) 16 Q. Can you read that first sentence in b.? 17 A. In b.? 18 Q. Yes. 19 A. "The use of classification unit procedures to 20 explore options, such as transfer to a more suitable 21 facility or a unit within the institution, which may be 22 better equipped to deal with the needs of a particular 23 disability. The associate director of classification 24 shall be responsible for ensuring that classification 25 staff are familiar with this policy and the concern</p>	<p style="text-align: right;">Page 143</p> <p>1 Q. And this does not indicate that it needs to be reviewed 2 by a medical staff first; is that correct? 3 A. It does. 4 Q. How so? 5 A. Well, the actual -- the medical -- an inmate cannot 6 tell me that he has medical needs that require a 7 special accommodation. I need that documented from 8 medical, so I am going to give that to medical. 9 Q. Is that what this policy says? 10 A. The inmate can request it. It does not mean I am 11 not going to go to medical to get approval. 12 Q. Can you look at Number E 2.? 13 A. Same page? 14 Q. Yes. Can you read that? 15 A. "If a medical staff member determines that a 16 medically prescribed accommodation is warranted, s/he 17 shall convey the medical order to the facility ADA 18 coordinator via the communication of inmate's special 19 needs form order, and shall enter a physician's order 20 in the inmate's medical record." 21 Q. Can you read the next paragraph? 22 A. "Under no circumstances shall correctional staff 23 substitute their judgment for that of medical staff 24 where a medical accommodation has been prescribed: 25 "Medically prescribed accommodations may be</p>
<p style="text-align: right;">Page 142</p> <p>1 presented by inmates with special needs." 2 Q. Does this appear to allow inmates to be transferred to 3 other facilities that may be better equipped to deal 4 with the needs of an inmate, particularly, in regard to 5 special needs accommodation? 6 A. That would be the intake center. 7 Q. So this would allow the transfer of an inmate for 8 special need accommodation purposes? 9 A. Yes. For treatment at the intake center, which is 10 a hospital. 11 Q. Look at Section III E, which is the next page, Page 5, 12 Section E 1.; what does this indicate are the avenues 13 for an inmate to request a reasonable accommodation? 14 A. a. "By request to or from medical staff for a 15 medically prescribed accommodation." 16 Q. Or, what does b. say? 17 A. b. "Or by the inmate's completion of a request for 18 reasonable accommodation of special need(s) form." 19 Q. So does that indicate to you that an inmate could make 20 a request directly to you on a particular form? 21 A. They can, but they have to follow the chain of 22 command first. 23 Q. Right, but that form would then go to you directly; is 24 that correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 144</p> <p>1 reviewed only to address institutional safety and 2 security concerns. Should a medically prescribed 3 accommodation require a modification under these 4 circumstances, the facility ADA coordinator shall 5 notify medical staff of the safety and security 6 concerns so that medical staff can appropriately modify 7 the prescribed accommodation, if possible, or alternate 8 housing can be arranged." 9 Q. So, does this section that you have just read indicate 10 to you that you are permitted to make decisions based 11 on anything, other than security concerns? 12 A. Or to require a modification. 13 Q. What does it say must happen if you are to require a 14 modification? 15 A. I refer back to medical. 16 Q. I believe that it says, "You shall notify medical staff 17 of the safety and security concerns so that medical 18 staff can appropriately modify the prescribed 19 accommodation." At any point between 2014 and 2016, 20 when you were reviewing the medical orders for the 21 reasonable accommodation requests that we've just went 22 over, did you ever notify medical staff of your safety 23 and security concerns? 24 A. I don't recall. 25 Q. There is no indication on the request forms that we</p>

<p style="text-align: right;">Page 145</p> <p>1 reviewed that you did; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. At no point is there any documentation that you ever</p> <p>4 informed medical staff of your safety and security</p> <p>5 concerns; is that correct?</p> <p>6 A. To the best of my knowledge, that's correct.</p> <p>7 Q. Can you go to Page 7?</p> <p>8 (WITNESS COMPLIES)</p> <p>9 Q. F 1. At the bottom; can you read that?</p> <p>10 A. "Upon approval of a reasonable accommodation,</p> <p>11 regardless of how the request was initiated, the</p> <p>12 facility ADA coordinator will prepare and send a</p> <p>13 reasonable accommodation/special needs memorandum to</p> <p>14 the concerned inmate and distribute copies as indicated</p> <p>15 on the form and to whomever else the facility ADA</p> <p>16 coordinator deems necessary in order to properly</p> <p>17 implement the accommodation.</p> <p>18 "Additionally upon receipt of the memorandum of the</p> <p>19 department, the ADA coordinator shall enter a brief,</p> <p>20 but informative description of the accommodation(s) to</p> <p>21 the inmate medical record in a form of a memo."</p> <p>22 Q. Does this section conflict with any of your earlier</p> <p>23 testimony regarding how special needs orders are</p> <p>24 implemented?</p> <p>25 A. No. I don't believe so.</p>	<p style="text-align: right;">Page 147</p> <p>1 inmate with written notification to include reason(s)</p> <p>2 for modification or denial.</p> <p>3 "Copies are also forwarded to medical records and</p> <p>4 records and identification for inclusion in the</p> <p>5 affected inmate's file."</p> <p>6 Q. Did you at any point between 2014 and 2016 provide the</p> <p>7 plaintiff with written notification in the form of a</p> <p>8 letter or memo, including reasons for the modification</p> <p>9 or denial?</p> <p>10 A. On the special needs request form.</p> <p>11 Q. In what way?</p> <p>12 A. By signing the special needs request form, that</p> <p>13 documentation is provided to the inmates, the original.</p> <p>14 Q. Did any of those orders that we've reviewed previously</p> <p>15 include the reason for the modification or denial?</p> <p>16 A. No.</p> <p>17 Q. Then let me ask you again, at any point during 2014 and</p> <p>18 2016, did you ever send to the plaintiff in this case a</p> <p>19 written notification of the reasons for your</p> <p>20 modification or denial of one of those accommodation</p> <p>21 orders?</p> <p>22 A. No. I sent it back to medical.</p> <p>23 Q. In your estimation, did you comply with the</p> <p>24 requirements of this policy, specifically, Section F2?</p> <p>25 A. I got the information back to the offender through</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. Have you ever between 2014 and 2016 prepared and sent a</p> <p>2 memorandum to the concerned inmate regarding the</p> <p>3 approval of his accommodation?</p> <p>4 A. No. I have sent it back to medical, and they send</p> <p>5 my approval or denial to the inmate directly.</p> <p>6 Q. So did you comply with the requirements of this section</p> <p>7 of the policy?</p> <p>8 A. I have not generated a memo to an inmate regarding</p> <p>9 their special needs, no.</p> <p>10 Q. Therefore, you have not complied with the specific</p> <p>11 requirement of this section of the policy to prepare</p> <p>12 such a memo and send it to the concerned inmate; is</p> <p>13 that correct?</p> <p>14 MR. SULLIVAN: Objection.</p> <p>15 A. I have sent, I have ensured the information through</p> <p>16 medical has gotten to the offender based on the special</p> <p>17 needs request. I have not generated it through a memo.</p> <p>18 I generate it through the special needs request so</p> <p>19 medical can put it back into their EMR, and the red</p> <p>20 copy signed by me goes to the inmate.</p> <p>21 Q. Can you read F, Number 2?</p> <p>22 A. Same page?</p> <p>23 Q. Yes.</p> <p>24 A. "When a request for reasonable accommodation is</p> <p>25 modified or denied, the facility ADA provides the</p>	<p style="text-align: right;">Page 148</p> <p>1 medical.</p> <p>2 Q. But it did not include reasons for the modification or</p> <p>3 the denial?</p> <p>4 A. Correct.</p> <p>5 Q. In that way, you did not fully comply with this section</p> <p>6 of the policy; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. Why didn't you ever provide reasons for your</p> <p>9 modification or denial for reasonable accommodation</p> <p>10 requests?</p> <p>11 MR. SULLIVAN: Objection. You can</p> <p>12 answer, if you know.</p> <p>13 A. Why did I not?</p> <p>14 Q. Yes.</p> <p>15 A. Because I responded to them through the special</p> <p>16 needs request, that gave them the answer on their</p> <p>17 request. They have it.</p> <p>18 Q. Who is they, the medical staff, or the inmates?</p> <p>19 A. The inmates received the red signed copy from me so</p> <p>20 that they can have it on their person anywhere they are</p> <p>21 in the facility.</p> <p>22 So if any correctional staff questions whether they</p> <p>23 have a special need for any reason, they are able to</p> <p>24 produce that. That's why I do it that way.</p> <p>25 Q. But, specifically, in regard to the denial, why did you</p>

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1 not provide the inmate with reasons for denying the
2 orders?
3 A. I don't know.
4 Q. Would it have been helpful for the inmate to understand
5 why the reasonable accommodation requests were being
6 denied?
7 MR. SULLIVAN: Objection.
8 A. He received -- he made a request, and his request
9 was denied. He got that information back from me in a
10 denial. That's as far as I have taken it.
11 Q. Do you know, or do you understand why this policy might
12 require you to provide reasons for modifying or denying
13 reasonable accommodation requests?
14 A. Information that I would give back to inmates, I
15 would give them exactly what they needed to know for
16 safety and security reasons.
17 Q. Did you give them the required information that this
18 policy requires?
19 A. I gave him either the approval or denial with the
20 notation of the medical request.
21 Q. But you did not give him reasons for the denial?
22 A. No.
23 Q. Do you understand why this policy might have required
24 you to provide reasons for denial to the plaintiff?
25 MR. SULLIVAN: Objection.

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1 A. Yes.
2 Q. Why?
3 A. Do I understand why?
4 Q. Why do you think it would have required you to provide
5 reasons for denying the request?
6 A. So he would have closure.
7 Q. Do you think it might have given him the ability to
8 talk to medical staff about what he could have done
9 differently to obtain the necessary bottom bunk order?
10 A. I don't know that he didn't.
11 Q. Well, we know from the inmate event history that he was
12 assigned to a top bunk from at least October 5, 2015
13 until June 7, 2016, and then again from August 12, 2016
14 through November 11, 2016; is that correct?
15 A. Yes.
16 Q. So, during that time, he did not have a bottom bunk
17 that several medical providers believed that he should
18 have; is that correct?
19 A. He did not have a bottom bunk. Yes.
20 Q. And at no point during that time did you explain to the
21 plaintiff why his orders were being denied; is that
22 correct?
23 A. That's correct.
24 Q. Do you think it would have helped him to understand why
25 those orders were denied?

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1 MR. SULLIVAN: Objection.
2 A. I don't know.
3 Q. If you had provided written explanations, would you be
4 better able to explain today why you denied many of
5 special needs order that we went over?
6 A. I am sorry. I don't understand what you are asking
7 me.
8 Q. For many of the exhibits that we went over, many of the
9 special needs accommodation requests, I asked you why
10 you denied certain orders, or why you approved certain
11 orders, and on multiple occasions, you said I don't
12 know; is that correct?
13 A. Yes.
14 Q. Do you think if you had provided a written explanation
15 to the plaintiff, you would be better able today to
16 explain why you denied several of those requests?
17 A. No.
18 Q. Why not?
19 A. I have explained to you why I denied them when you
20 asked me.
21 Q. Did you not just agree that there were some orders that
22 you said you did not know why you denied them?
23 A. Yes.
24 Q. So if you had written down an explanation at that time,
25 would we be able to understand why you denied them

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1 today?
2 A. Yes.
3 Q. Can you, please, look at section III H, which is on
4 Page 9?
5 (WITNESS COMPLIES)
6 Q. Can you read that?
7 A. Section H.
8 Q. Yes?
9 A. "Facility-specific procedures: The warden or
10 designee of each facility shall be responsible for
11 developing and implementing facility-specific
12 procedures pursuant to this policy.
13 "Such procedures shall include at a minimum:
14 "1. a description as to how special needs
15 accommodations are communicated to affected staff on
16 the various shifts who may have responsibility for
17 implementation of said accommodations; and
18 "2. a designation of the locations where inmates
19 may obtain a request for reasonable accommodations of
20 special need(s) form." A request, where an inmate can
21 obtain the request for reasonable accommodations."
22 Q. And as we have discussed, you were the designee for
23 this facility; is that correct?
24 A. Yes.
25 Q. And did you at any point prepare, develop or implement

<p style="text-align: right;">Page 153</p> <p>1 facility-specific procedures pursuant to this policy?</p> <p>2 A. Yes. When I would have -- I had personal needs</p> <p>3 request that were going to be approved, I worked with</p> <p>4 medical staff to generate a form that allowed us --</p> <p>5 security staff and medical staff -- to determine what</p> <p>6 an offender could or could not do based on their</p> <p>7 medical needs, including jobs, including programs,</p> <p>8 including gym activities, organized sports.</p> <p>9 Those were generated to all of the areas of the</p> <p>10 facilities that would be affected by that. For</p> <p>11 example, the gym, the housing units, the industries</p> <p>12 lieutenant who assigns job, the housing lieutenants who</p> <p>13 assign jobs.</p> <p>14 Q. Are you saying that there's a document that explains</p> <p>15 all of that?</p> <p>16 A. Yes.</p> <p>17 Q. What is that document?</p> <p>18 A. It's a special needs accommodation form. I created</p> <p>19 it with medical staff.</p> <p>20 Q. But is that different from the form that the medical</p> <p>21 staff were filling out to send to you?</p> <p>22 A. It is in addition to.</p> <p>23 MS. DAVIS: Okay. I would like to get a</p> <p>24 copy of that form?</p> <p>25 MR. SULLIVAN: Sure.</p>	<p style="text-align: right;">Page 155</p> <p>1 in, how the medical staff submits the form to you, how</p> <p>2 you submit it back, are there any written procedures</p> <p>3 specifically on that aspect?</p> <p>4 A. I don't know.</p> <p>5 Q. Did you at any point train affected staff on how to</p> <p>6 implement this policy?</p> <p>7 A. Did I specifically train?</p> <p>8 Q. Yes.</p> <p>9 A. No.</p> <p>10 Q. And I believe that you previously testified that at no</p> <p>11 point did you take any steps to ensure that orders that</p> <p>12 you had approved had been implemented; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Does this policy indicate that that would have been</p> <p>15 your responsibility?</p> <p>16 A. To ensure that?</p> <p>17 Q. That all aspects of this policy were implemented; as</p> <p>18 in, if an accommodation request was approved, that it</p> <p>19 would then be implemented fully?</p> <p>20 A. I give the special needs back to medical, and the</p> <p>21 copy goes to inmate, and the housing assignment goes to</p> <p>22 security.</p> <p>23 Q. Does this policy indicate that it is your</p> <p>24 responsibility for ensuring that every aspect of this</p> <p>25 policy is implemented?</p>
<p style="text-align: right;">Page 154</p> <p>1 (SO NOTED)</p> <p>2 Q. Were there any other written procedures specific to</p> <p>3 implementing this policy, other than what you have just</p> <p>4 described?</p> <p>5 A. Well, in addition to what I have just described --</p> <p>6 if I could revisit the question about me not writing a</p> <p>7 memo to an inmate on why there was an a denial or an</p> <p>8 approval. They sign those forms.</p> <p>9 So, if a special needs request was implemented, and</p> <p>10 there was going to be accommodations that we would need</p> <p>11 to implement, that offender is going to sign that form</p> <p>12 that indicates what restrictions they have to keep them</p> <p>13 safe, whether it is not lifting weights or not having a</p> <p>14 specific job, they sign that off.</p> <p>15 So, they are very well aware that the medical</p> <p>16 condition that they have, we are going to protect them</p> <p>17 from not harming themselves further.</p> <p>18 So, when the medical staff gives me that form, and</p> <p>19 it is signed, they are going to attach that -- they are</p> <p>20 going to attach that to it.</p> <p>21 Q. Are you aware if the inmate in this case has ever been</p> <p>22 provided with one of those?</p> <p>23 A. I don't know.</p> <p>24 Q. Are there any specific written procedures on</p> <p>25 implementing the processes described in this policy; as</p>	<p style="text-align: right;">Page 156</p> <p>1 A. Yes.</p> <p>2 Q. So, ultimately, it would have been your responsibility</p> <p>3 to ensure that the orders you approved were fully</p> <p>4 implemented; is that accurate?</p> <p>5 A. It is my responsibility that I make sure that I</p> <p>6 generate the information to the parties that need it.</p> <p>7 Q. That would include having correctional staff implement</p> <p>8 approved orders; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Based on all of these sections that we have reviewed in</p> <p>11 this policy, have you properly exercised your</p> <p>12 responsibility to ensure that the medium security</p> <p>13 facility fully complied with this policy?</p> <p>14 MR. SULLIVAN: Objection. You can</p> <p>15 answer.</p> <p>16 A. Can you ask one more time, please?</p> <p>17 Q. Based on each of the sections that we have just</p> <p>18 discussed, have you properly exercised your</p> <p>19 responsibility to ensure that this policy is followed</p> <p>20 by the medium security facility?</p> <p>21 A. I implemented it, yes, to the best of my ability.</p> <p>22 Q. Do you believe you fully complied with every aspect of</p> <p>23 this policy?</p> <p>24 A. Yes.</p> <p>25 Q. Did you at any point send a written explanation to the</p>

<p style="text-align: right;">Page 157</p> <p>1 inmate for why you denied a reasonable accommodation 2 request? 3 A. I sent him the denial. 4 Q. You did not at any point provide a written explanation 5 for those denials? 6 A. No. 7 Q. So do you believe that you fully complied with this 8 policy? 9 A. By not explaining to him why I denied him, in that 10 particular instance, yes. 11 Q. Yes, you do think you fully complied? I am sorry. Do 12 you believe that you complied with every aspect of this 13 policy? 14 A. Not that particular aspect. However, he did have 15 his denial, and he also had his -- he would have a 16 signoff sheet for restrictions. 17 Q. If the accommodation had been approved? 18 A. Yes, and so on those instances, that it was, he 19 would, one of those sheets should have been attached. 20 I just can't tell you right here if it actually was. 21 MS. DAVIS: Exhibit 20. 22 EXHIBIT 20, PLAINTIFF'S, MARKED FOR I.D. 23 Q. Can you quickly look on Page 2? At the second page, 24 the second paragraph, your name, and it says that you 25 assisted in the preparation of these responses,</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. Why not medical staff? 2 A. That would be where Kim Kane would come in. 3 Q. If you were responsible for implementing that policy, 4 why would you not be responsible for ensuring that 5 medical staff complied with that policy? 6 A. That would be something that would be followed up 7 by medical. So, medical would ensure that their staff 8 are following that policy. 9 Q. But would you communicate with medical staff to ensure 10 that they're following that policy? 11 A. With Kim Kane. 12 Q. So you would talk to Kim Kane about ensuring that 13 medical staff are following the policy; is that 14 correct? 15 A. Yes. If it was today, it would be Kim Kane, but it 16 was not Kim Kane back then. 17 Q. Who was it back then? 18 A. Gordon Bouchard. 19 Q. That is the person that you would communicate in regard 20 to implementing the ADA policy? 21 A. He is the one that I would go to to ensure that 22 medical staff are submitting them the way they are 23 supposed to be. 24 Q. Did us discuss with Mr. Bouchard your concerns about 25 the special needs requests?</p>
<p style="text-align: right;">Page 158</p> <p>1 including responses to Interrogatories 1 through 7, and 2 9 through 22; is that correct? 3 A. Yes. 4 Q. Can you look at Response Number 4? 5 (WITNESS COMPLIES) 6 Q. Can you look at Response Number 8 -- I am sorry? 7 (WITNESS COMPLIES) 8 Q. Number 8 is one of the two that you did not respond to, 9 do you know why Kim Kane responded to this question, 10 and not you? 11 MR. SULLIVAN: Objection. 12 A. I don't. 13 Q. This is a request in regard to the procedures and 14 practices for the DOC medical staff to submit special 15 needs, urgent orders, medical orders, reasonable 16 accommodation requests; is that correct? 17 A. Are you reading the interrogatories? 18 Q. I am just reading if that is what this interrogatory is 19 about. This is about special needs and urgent orders; 20 is that correct? 21 A. From the medical staff's perspective, yes. 22 Q. Based on the policy that you have just read, were you 23 responsible to ensure that the implementation of that 24 policy be followed by all staff? 25 A. Not medical staff.</p>	<p style="text-align: right;">Page 160</p> <p>1 A. No, not that I can recall. 2 Q. Why not? 3 A. I don't recall. 4 Q. Can you look at Interrogatory Number 9, your response 5 to this interrogatory was assisted in preparation by 6 you; is that correct? 7 A. I am sorry? 8 Q. You assisted in preparing the response to this 9 interrogatory response? 10 A. Yes. 11 Q. And in this explanation, or let's discuss Interrogatory 12 Number 9, it requests that you describe in detail the 13 procedures and practices to be followed by correctional 14 staff in regard to the intake and medium security 15 facilities, including the deputy warden, in evaluating 16 and approving, modifying, or denying special 17 needs/urges orders, is that correct? This 18 interrogatory is asking about procedures in regard to 19 special needs accommodation; is that correct? 20 A. Yes. 21 Q. And in this, you responded -- I am looking at the third 22 paragraph in the response, the second sentence starts 23 with, "Orders for medically prescribed special 24 accommodations are reviewed by the deputy warden of the 25 facility to address institutional safety and security</p>

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1 concerns"?
2 A. Yes.
3 Q. Is that correct?
4 A. Yes.
5 Q. Then it says, "After reviewing the order, the deputy
6 warden may either request more information, recommend a
7 modification, grant the request, or deny the request.
8 Orders are denied if they would materially impair the
9 safe and efficient operation of the program, present a
10 safety hazard to staff or the individual inmate,
11 threaten the security of the correctional
12 institution/facility, or otherwise cause extreme
13 hardship in the operation of the institution/facility";
14 is that correct?
15 A. Yes.
16 Q. And that comports with the ADA policy that we have just
17 reviewed; is that correct?
18 A. Yes.
19 Q. Is there anything in this explanation that gives you
20 the authority to review medical providers' requests
21 based on the legitimacy of the request?
22 A. If I am looking for documentation, yes. If I am
23 looking for real documentation, that this actually
24 exists, yes, that the medical condition actually
25 exists.

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1 Q. Which specific reason listed in this answer allows you
2 to do that?
3 A. Addressing institutional and safety concerns.
4 Q. Specifically, it says that it would threaten the
5 security of the correctional institution/facility or
6 otherwise cause extreme hardship in the operations; is
7 that correct?
8 A. I am looking at the paragraph above.
9 Q. Orders are denied if they would materially impair the
10 safe and efficient operation; is that what you are
11 looking at?
12 A. I am looking at that, and I am also looking at
13 orders for medically prescribed special accommodations
14 are reviewed by the deputy warden of the facility to
15 address institutional safety and security concerns.
16 Q. Right, but it then gives explicit reasons why you are
17 permitted to deny an order; is that correct?
18 A. It gives me the opportunity to request more
19 information.
20 Q. Well, I do not believe that the policy actually does
21 that. It says, Orders are denied if they would impair
22 the safe -- if they would materially impair the safe
23 and efficient operation of the program; is that
24 correct?
25 A. That's one reason, yes.

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1 Q. And would a request for a bottom bunk, in regard to the
2 plaintiff in this case, would that have ever materially
3 impaired the safe and efficient operation of the
4 program?
5 A. Well, the bottom bunk order is not a program, but
6 it could have presented a safety hazard to staff and/or
7 other individual inmates.
8 Q. Granting a bottom bunk would have presented a safety
9 hazard; is that what you are saying?
10 A. I am saying that bottom bunk orders are -- I have
11 limited bottom bunk orders, so I am going to ensure
12 that people who actually have them have documented
13 medical documentation that indicates it is required.
14 Q. How would granting a request for a bottom bunk present
15 a safety hazard to staff or the individual inmate?
16 A. By creating a climate issue.
17 Q. Would it have created a climate issue to grant it
18 specifically for the plaintiff in this case?
19 A. It could have.
20 Q. Did it?
21 A. No.
22 Q. At any point, have you seen the granting of a bottom
23 bunk create a hazard to staff or inmates?
24 A. Yes.
25 Q. In what way?

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1 A. By granting bottom bunks to individuals who don't
2 necessarily need them, and preventing someone who
3 clearly does need one from potentially not getting one.
4 Q. Has that actually happened? Have you granted orders
5 that prevented other inmates from receiving orders for
6 a bottom bunk?
7 A. What I have had is an inmate who was on a bottom
8 bunk who did not have a bottom bunk order being moved
9 to a top bunk so another offender could come into that
10 same cell and have the bottom bunk. Sometimes that's
11 caused a climate issue between the two of them, if the
12 person on the bottom bunk order does not appear to be
13 legitimate.
14 Q. Was that a concern for the plaintiff in this case?
15 A. Was what a concern?
16 Q. The creation of a safety hazard to the inmate.
17 A. It was one of the things that I looked at, yes.
18 Q. Are you aware that it ever did create a safety hazard
19 in regard to the plaintiff in this case?
20 A. No.
21 Q. Would granting the bottom bunk for the plaintiff in
22 this case have, otherwise, caused an extreme hardship
23 in the operation of the institution/facility?
24 A. I don't know.
25 Q. Do you have any reason to believe that it would have

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1 created an extreme hardship of the operation of the
2 institution/facility?
3 A. I don't know.
4 Q. You do not know? Does that mean that you have no
5 information to believe that it would have created an
6 extreme hardship?
7 A. I have no information to believe that this
8 particular case would have created an extreme hardship
9 as one of the areas that I looked at.
10 Q. Can you look at response to Number 11, please.
11 (WITNESS COMPLIES)
12 Q. Does this provide a response to the request for a
13 description in detail of the circumstances under which
14 a deputy warden may deny or modify special needs
15 accommodation requests?
16 A. I am sorry. Can you ask that again?
17 Q. Does this interrogatory request a response, describing
18 in detail the circumstances under with a deputy warden
19 may deny or modify a special needs request; is that
20 what this interrogatory is requesting?
21 A. Yes.
22 Q. And can you, please, read the last paragraph on that
23 page, and you can read it to yourself?
24 (WITNESS COMPLIES)
25 Q. Does the answer provided in this interrogatory, Number

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1 11, conflict with any of your prior testimony?
2 A. I don't believe so, no.
3 Q. Does it say that a deputy warden may not change,
4 substitute, or modify an order from a medical provider?
5 A. Yes.
6 Q. Were there exhibits that we reviewed earlier where you
7 did, in fact, change or modify orders unilaterally?
8 A. I changed a review date.
9 Q. Which is the expiration date; is that correct?
10 A. It is a review date.
11 Q. But it determines the expiration of the order; is that
12 correct?
13 A. Yes.
14 Q. So you, unilaterally, on multiple occasions changed the
15 expiration date from what the medical provider had
16 designated; is that correct?
17 A. No. I believe I changed it on one form.
18 Q. Would you like to look at them to verify?
19 A. Are you referring to this as one of them?
20 Q. Does it change the expiration date?
21 A. No. I just circled the bottom one. Is that the
22 one you are referring to?
23 Q. It is also be regarded as a modification, but I believe
24 there are at least two orders where you changed the
25 expiration date.

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1 A. I find one (indicating).
2 MR. SULLIVAN: I believe she is referring
3 to Exhibit 11, I think.
4 THE WITNESS: That's what I said.
5 A. Is that what you are referring to, the one where I
6 just circled the bottom bunk one?
7 Q. Yes. I think Number 11 and Number 16?
8 A. Yes. Where I changed it to March.
9 Q. So on those two occasions, you did unilaterally modify
10 the expiration date of those orders; is that correct?
11 A. No. I circled the bottom bunk order, which was the
12 last order entered. That's the last order entered, so
13 I just circled it, because it was the last order
14 entered, and the other one, I changed the review date.
15 Q. In effect, you had chosen the expiration date for the
16 one that you circled; is that correct?
17 A. I chose a review date.
18 Q. And that date is the date that the order will expire;
19 correct?
20 A. Yes. Well, we would review, and it may have gotten
21 extended, but that was the date we were going to review
22 it.
23 Q. But without a review, it would not continue; correct?
24 A. Correct. Medical would give me a new form.
25 Q. When Dr. Vohr was the medical director at medium

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1 security, was he aware that you denied an accommodation
2 request based upon whether or not you deemed them
3 legitimate?
4 MS. STOWELL: Objection.
5 A. I don't know.
6 Q. Did you ever discuss it with him?
7 MS. STOWELL: Objection.
8 A. I don't recall.
9 Q. Is Dr. Clarke currently aware that you denied
10 accommodation requests based on whether or not you
11 deemed them legitimate?
12 MS. STOWELL: Objection.
13 MR. SULLIVAN: Objection.
14 A. I don't know.
15 Q. Have you ever discussed your review of accommodation
16 requests with Dr. Clarke?
17 A. I don't recall.
18 Q. Was Director Wall ever aware that you denied
19 accommodation requests based on whether or not you
20 deemed them legitimate?
21 MR. SULLIVAN: Objection.
22 A. I don't know.
23 Q. Did you ever discuss it with him?
24 A. I don't recall.
25 Q. And who is the current director of the DOC?

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1 A. Trish Coyne-Fague.
2 MS. STOWELL: I do believe it is
3 Patricia, actually.
4 A. Yes, it is.
5 MS. DAVIS: Thank you.
6 Q. Is she currently aware that you deny accommodation
7 requests based on whether or not you deem them
8 legitimate?
9 A. I don't do them anymore.
10 Q. You're right. That was my fault. When was the last
11 time that you reviewed accommodation requests?
12 A. Approximately 18 months ago.
13 Q. And was the warden of medium security facility aware
14 that you were denying accommodation requests, based
15 upon whether or not you deemed them legitimate?
16 A. I am not sure.
17 Q. Did you ever discuss your review of the accommodation
18 requests with the warden?
19 A. Yes.
20 Q. So, do you recall ever telling the warden that you felt
21 that you did not have enough information in the
22 requests that were given to you from medical?
23 A. On some occasions, I did.
24 Q. Did you tell him that you found the lack of information
25 to be difficult in your determination of whether or not

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1 the request was legitimate?
2 A. I am sorry? Can you ask that again.
3 Q. I believe that you earlier testified that you did not
4 like that you did not receive enough information
5 because you could not determine whether or not the
6 request was legitimate; is that correct?
7 A. Yes.
8 Q. Did you ever complain to the warden, that the lack of
9 information in the request meant that you could not
10 determine whether the requests were legitimate?
11 A. I didn't complain to the warden, but it is
12 something that would have been documented in triage
13 meetings of mine that he would review.
14 Q. So, he very well might have been aware of the fact that
15 you were reviewing these based on whether or not you
16 deemed them legitimate?
17 A. Some of them, yes.
18 Q. Who was warden of the medium facility -- medium
19 security facility when you were the programmatic
20 deputy?
21 A. Sergio DeSousa Rosa.
22 Q. Was that the whole time that you were in that position?
23 A. Yes.
24 MS. DAVIS: I have no further questions.
25 MS. STOWELL: I have a few.

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1 EXAMINATION BY ATTORNEY HILL
2 Q. Earlier in the deposition you gave a list of the
3 reasons that you might approve an accommodation
4 request; is that correct?
5 A. Yes.
6 Q. Do you review all of those requests individually?
7 A. Yes.
8 Q. Do you decide whether to grant or reject an
9 accommodation request based solely on those categories
10 of injuries that you named earlier?
11 A. No.
12 Q. So you might decide to approve or reject --
13 MS. STOWELL: Strike that.
14 Q. You might have approved a request for accommodation
15 based on a reason that was not one of the ones that you
16 named earlier?
17 A. Yes.
18 Q. So that was not an inclusive list of medical conditions
19 that you would grant an accommodation for?
20 A. Correct.
21 Q. You testified earlier that you would grant bottom bunk
22 requests for inmates who are diabetic?
23 A. Yes.
24 Q. And why would that be granted?
25 A. That's a request that came through medical, that

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1 people who have a diagnosis of diabetes be not only
2 house in bottom bunks, but obviously, on bottom tiers.
3 Q. Do you know if medical staff verifies an inmate has a
4 medical condition before sending in an accommodation
5 request to you?
6 A. Do I know if they verify?
7 Q. Right.
8 A. They don't always verify.
9 Q. Let me back up. Have you been in a meeting with
10 medical staff and an inmate where they requested
11 accommodations at any point?
12 A. Yes.
13 Q. And in that meeting, did medical staff verify that an
14 inmate had a medical condition requiring an
15 accommodation?
16 A. No.
17 Q. Are you in all meetings between medical staff and an
18 inmates when they request accommodations?
19 A. No.
20 Q. So you are not aware if medical staff always verifies
21 that an inmate has a medical condition before they send
22 an accommodation request to you?
23 A. Correct.
24 Q. So, medical staff may have sent every request for
25 accommodations from an inmate to you?

<p style="text-align: right;">Page 173</p> <p>1 A. Yes.</p> <p>2 Q. Is there any way in the documentation sent to you for</p> <p>3 you to know if medical staff has verified that an</p> <p>4 inmate has a medical condition before they request</p> <p>5 accommodations from you?</p> <p>6 A. No.</p> <p>7 Q. When you say that you reviewed these requests for</p> <p>8 legitimacy, what criteria were you using to determine</p> <p>9 whether or not a request was legitimate?</p> <p>10 A. When a special needs request comes to me, I want</p> <p>11 verification that there is a documented medical need.</p> <p>12 So, legitimacy, the offender population asks for</p> <p>13 requests all of the time for all different things,</p> <p>14 wedges, eggcrate mattresses, and what I am looking to</p> <p>15 do is to determine whether or not that request is</p> <p>16 valid, if it is a valid request, if the information</p> <p>17 that the inmate is presenting, especially if it is</p> <p>18 self-reported, can be validated.</p> <p>19 Q. So when you say validated, you are asking if there is</p> <p>20 appropriate medical -- sorry.</p> <p>21 MS. STOWELL: Strike that.</p> <p>22 Q. So, you're looking to see if there has been a medical</p> <p>23 diagnosis or documentation of a condition that an</p> <p>24 inmate would need an accommodation for?</p> <p>25 A. To support that request, yes.</p>	<p style="text-align: right;">Page 175</p> <p>1 Q. In what way would that be an extreme hardship?</p> <p>2 A. Because if we have legitimate medical bottom bunk</p> <p>3 orders that we can't fulfill, it is at that point that</p> <p>4 we would be in violation of law with the ADA.</p> <p>5 Q. And just to clarify, when you say legitimate, you mean</p> <p>6 that to be medically documented?</p> <p>7 A. Yes.</p> <p>8 MS. STOWELL: Anything from you, Justin?</p> <p>9 MR. SULLIVAN: Just one.</p> <p>10 EXAMINATION BY ATTORNEY SULLIVAN</p> <p>11 Q. If you could take a look at Exhibit 19, on the top, in</p> <p>12 the box, do you see where it says inmate/public access?</p> <p>13 A. Yes.</p> <p>14 Q. Do you see there are check boxes next to it?</p> <p>15 A. Yes.</p> <p>16 Q. Which one of those check boxes is checked?</p> <p>17 A. Yes.</p> <p>18 Q. The one that says yes?</p> <p>19 A. Yes.</p> <p>20 Q. Would that indicate that inmates in all facilities have</p> <p>21 access to this particular policy?</p> <p>22 A. Yes.</p> <p>23 Q. Including the plaintiff, Stephen Melise?</p> <p>24 A. Yes.</p> <p>25 Q. So if I draw your attention to Page 5, Section E, where</p>
<p style="text-align: right;">Page 174</p> <p>1 Q. The documents that are sent to you from medical staff,</p> <p>2 those are requests for accommodations?</p> <p>3 A. Yes.</p> <p>4 Q. They are not orders for accommodations?</p> <p>5 A. Correct.</p> <p>6 Q. What about a bunk order, would that be the kind of</p> <p>7 accommodation that would typically warrant a transfer</p> <p>8 of an inmate to another facility?</p> <p>9 A. A bottom bunk order?</p> <p>10 Q. Yes.</p> <p>11 A. No.</p> <p>12 Q. What type of an accommodation would generally warrant a</p> <p>13 transfer to another facility?</p> <p>14 A. A medical condition that requires more than we can</p> <p>15 provide at medium security, so then they would go to</p> <p>16 the intake hospital.</p> <p>17 Q. Would that be a condition like a cancer treatment?</p> <p>18 A. Yes.</p> <p>19 Q. Now, you testified earlier that you have not been in a</p> <p>20 situation where you have run out of bottom bunks;</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. Would running out of bottom bunks to assign be an</p> <p>24 extreme hardship to the facility?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 176</p> <p>1 it says, The inmate's request for reasonable</p> <p>2 accommodation may be initiated in one of two ways, is</p> <p>3 it fair to say that the plaintiff would have access to</p> <p>4 this policy, and in that policy, he would have</p> <p>5 knowledge that he could submit a reasonable</p> <p>6 accommodation request?</p> <p>7 A. Yes.</p> <p>8 Q. To your knowledge, do you recall ever having received</p> <p>9 an accommodation request directly from the plaintiff?</p> <p>10 A. No. I don't recall.</p> <p>11 MR. SULLIVAN: Nothing further.</p> <p>12 MS. STOWELL: I have one question.</p> <p>13 FURTHER EXAMINATION BY ATTORNEY STOWELL</p> <p>14 Q. Very quickly, just for the record, we are talking about</p> <p>15 tiers and floors and mods. Would you able to give a</p> <p>16 very basic description of the layout of medium security</p> <p>17 for those of us that have never been there?</p> <p>18 A. The housing unit, or the security itself?</p> <p>19 Q. The housing unit, tiers, mods.</p> <p>20 A. Okay. I am a visual person, so I can appreciate</p> <p>21 that. So when you walk into a housing unit, there is a</p> <p>22 solid, locked door. The door is popped open by the</p> <p>23 main control center. You walk in. There is a main</p> <p>24 control center in front of you. There is a</p> <p>25 correctional officer in that main control center.</p>

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1 There are two sliders, doors that slide and lock on
2 each side of that control center, left and right. When
3 those sliders are open, you enter the housing unit.
4 The housing unit has a set of stairs that goes up
5 to a top tier. It has phones on the walls. It has a
6 bank of showers, and then it has 48 cells that go
7 around the day room and 48 cells that go around the
8 top.
9 Q. Okay.
10 A. The day rooms have metal picnic tables in the
11 center of them where they can play games, listen to MVP
12 players, tablets, what have you.
13 Q. Then each mod would be what you would call unit B mod,
14 A mod?
15 A. A through F.
16 Q. And they each have a left and a right?
17 A. Correct.
18 Q. And each of those have two floors with the day room in
19 the middle?
20 A. Correct.
21 MS. STOWELL: That's my only question.
22 Thank you. No further questions.
23 THE REPORTER: For the record, does
24 counsel want a transcript of the proceedings?
25 MS. DAVIS: Original, or actually

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1 whatever our standard order is.
2 MR. SULLIVAN: Regular copy and
3 electronic with exhibits.
4 MS. STOWELL: Standard order, electronic
5 full, and mini with exhibits.
6 (DEPOSITION CONCLUDED AT 3:15 P.M.)
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C E R T I F I C A T E

1
2
3 I, Lori Spremulli Confreda, Certified Court Reporter, in
4 and for the State of Rhode Island, duly commissioned and
5 qualified to administer oaths, do hereby certify that the
6 foregoing deposition of Kerri McCaughey, a Defendant in the
7 above-entitled cause, was taken before me on behalf of the
8 Plaintiff, at Sinapi Law Associates, Ltd., 2374 Post Road,
9 Suite 201, Warwick, Rhode Island 02886, on Friday, July
10 12th, 2019, at 10:00 A.M. That previous to examination of
11 said witness, who was of lawful age, she was first sworn by
12 me and duly cautioned and sworn to testify to the truth,
13 the whole truth and nothing but the truth, and that she
14 thereupon testified as in the foregoing manner as set out
15 in the aforesaid transcript.
16
17 I further certify that the foregoing deposition was taken
18 down by me in machine shorthand and was later transcribed
19 by computer and that the foregoing deposition is a true and
20 accurate record of the testimony of said witness.
21
22 Pursuant to Rule 28 of the Federal Rules of Civil
23 Procedure, original transcripts shall not be filed in
24 court; therefore, the original is delivered and retained by
25 Plaintiff's attorney, Chloe A. Davis.
26
27 Reading and signing of the deposition was not requested by
28 the Witness and Counsel.
29
30 IN WITNESS WHEREOF, I have hereunto set my hand this 25th
31 day of July, 2019.

LORI SPREMULLI CONFREDA,
CERTIFIED COURT REPORTER, R.P.R.

IN RE: MELISE VS. WALL, ET AL.
C.A. NO. 1:17-cv-00490-JJM-PAS,
UNITED STATES DISTRICT COURT,
FOR THE DISTRICT OF RHODE ISLAND

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